

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)	
)	
PHH MORTGAGE CORPORATION)	No. 2011-MBR-16
1 Mortgage Way)	
Mount Laurel, NJ 08054)	

ORDER ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the “Department”) has reviewed the activities of PHH Mortgage Corporation (PHH), an Illinois residential mortgage licensee, holding license No. MB.0000443-DBA1 (License) and located at 1 Mortgage Way, Mount Laurel, New Jersey 08054. The Department has documented violations by PHH of the Residential Mortgage License Act of 1987 (the “Act”), 205 ILCS 635, and hereby issues this ORDER pursuant to the authority provided under Section 4-5(h)(5) of the Act. The Department cites statutory authority and makes findings of fact as follows:

STATUTORY AUTHORITY & FINDINGS OF FACT

1. Section 2-4(r) of the Act requires an applicant to aver to the Department 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. Section 2-4 of the Act further provides that a licensee who fails to fulfill obligations of an averment, to comply with averments made, or otherwise violates any of the averments shall be subject to the penalties in Section 4-5 of this Act. Section 4-5 provides for imposition of a fine not to exceed \$25,000 for each separate offense and provides that the grounds for which this disciplinary action may be taken includes failure to comply with or violation of any provision of this Act;
2. That PHH as an applicant for its License made the averment in Paragraph 1 above and is subject to the penalties in Section 4-5 of the Act;
3. That commencing in the fall of 2010 the Department opened a special review of servicing and foreclosure activities performed by licensed entities due to widespread reports and consumer complaints of alleged “robo signing” activities and other irregularities in servicing and foreclosure procedures;
4. That as part of this continuing special review, the Department became aware of certain practices by licensees, their employees and agents that violate various State laws and/or court procedures;
5. During the course of reviewing these practices, the Department became aware of General Administrative Order No. 2011-01 (the “GAO”) and GAO Attachment A entered in the

Circuit Court of Cook County, Illinois, County Department, Chancery Division (the GAO is attached to the Department's Order as Exhibit A);

6. That the GAO states that representatives from the law firm of Fisher and Shapiro (the "Law Firm") reported to the Court that affidavits filed in pending mortgage foreclosure cases by the Law Firm were altered without the affiant's knowledge. The GAO then describes that "the affidavits were altered in such a way that included changing the content of the original affidavit by removing the signature page and reattaching the signature page by the affiant to the altered content. The alteration of the contents in the affidavits included, but were not limited to, adding attorney's fees and costs, adding in insurance costs, inspection costs, preservation costs, and/or taxes incurred on the property...;"
7. That the GAO lists multiple PHH loans, among other mortgage servicing company loans, in GAO Attachment A as containing altered affidavits by the Law Firm acting as agent for PHH;
8. That the Department has reviewed 19 of the PHH affidavits identified in Paragraph 6 and found a pattern and practice of actively cooperating in the process of altering affidavits as described in the GAO. For each of these affidavits, PHH included a pre-executed signature page formatted in such a way to permit it to be separated from the original incomplete affidavit for purposes of the Law Firm's use; that PHH failed to re-execute the altered affidavit prior to it being filed with the Court; that PHH's knowledge of and complicity with this process is evidenced by the fact that the original affidavits submitted to the Law Firm were incomplete and contained notations such as "will add"; and the Law Firm, under penalty of perjury, acting on behalf of PHH, then attested to the completeness of the filed affidavits although they had not been reviewed or re-executed by PHH. The nineteen affidavits reviewed by the Department and attached as Exhibit B were filed in the following foreclosure cases:
 - a. 08 CH 37795 PHH v. Luis Cazarin
 - b. 09 CH 15130 PHH v. Mehmed Juraldzic
 - c. 09 CH 51209 PHH v. Keitumetse Tsotetsi
 - d. 09 CH 029207 PHH v. Michele Edwards
 - e. 09 CH 51977 PHH v. James A. Beyer
 - f. 10 CH 2632 PHH v. Gladys Reynoso
 - g. 09 CH 52029 PHH v. David L. Watson
 - h. 10 CH 8120 PHH v. Nikko Lewis
 - i. 09 CH 41995 PHH v. Lizzette Jimenez
 - j. 10 CH 8128 PHH v. Ollie N. Talbott, Jr.
 - k. 08 CH 9550 PHH v. Allen Z. Roberts, Sr.
 - l. 10 CH 11489 PHH v. Elizabeth J. Logan
 - m. 10 CH 8113 PHH v. Maria E. Campos
 - n. 10 CH 15877 PHH v. John C. Gearhart
 - o. 08 CH 17388 PHH v. Claudette Walton-Giles
 - p. 09 CH 25622 PHH v. Robert A. Brunt
 - q. 08 CH 29645 PHH v. Deontaj Matthews
 - r. 08 CH 39243 PHH v. Leonel Hernandez
 - s. 09 CH 23695 PHH v. Casper La Vito;

9. That the Department requested and received from PHH its written policy on affidavit review which describes steps to be taken by its employees when preparing an affidavit that will be relied upon by the courts or foreclosure counsel. This written policy provided, in part, that PHH's employees (affiants) were to contact the notary and execute the affidavit in the presence of the notary. PHH's practice of preparing pre-executed signature pages was contrary to this written policy. PHH failed to ensure that its employees (affiants) complied with this written policy and failed to conduct necessary internal and external quality control reviews. PHH knew or should have known that the Law Firm was not contacting the affiants for final approval and signature of affidavits containing additional fees, costs, and/or taxes not included within the affiant's original affidavits submitted to the Law Firm; and
10. That the Department finds that PHH was responsible for the collection of payments, including initiating a foreclosure action, and the above-mentioned acts and/or omissions involved the use of the License and were in connection with PHH's loan servicing database system and records, policies, employees and agents. PHH management failed to maintain basic internal controls to ensure proper oversight and as a result, PHH fostered a pattern of practice of improper loan servicing activities and an environment where consumers were placed at risk of harm.
11. That the Department has further discovered other evidence of irregularities on the part of PHH employees in 16 of the 19 affidavits. These 16 affidavits were identified as having all been signed and attested to by the same PHH Employee in his or her official capacity. Yet, the Department noted no less than five distinctly different signatures attributed to this same PHH Employee (see Exhibit C attached), leading the Department to conclude that at least four affiants used a person's name, other than their own, to sign the affidavits. In this regard, PHH also knew or should have known that its employees were using various signers purporting to be the same signatory or some other method that did not ensure the integrity of the documents filed on its behalf. The Department's investigation into these discrepancies continues;

CONCLUSIONS

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

PHH has demonstrated a course of conduct which, at the very least, rises to the level of negligence or incompetence in performing the aforementioned acts for which it is required to hold its License and is in violation of Sections 2-4(r) and 4-5(i) (17) of the Act.

ORDER

NOW THEREFORE IT IS ORDERED:

1. That PHH, License No. MB.0000443-DBA1, shall be and hereby is assessed a fine in the amount of \$10,000 for each of the nineteen files listed in Paragraph 8 above for a fine in the amount of \$190,000;

2. That PHH, License No. MB.0000443-DBA1, shall be and hereby is assessed a fine in the amount of \$25,000 for four instances in which an affiant used a person's name, other than their own, to sign affidavits for a fine in the amount of \$100,000;
3. The total fine of \$290,000 shall be due 30 days after the effective date of this Order upon PHH; and
4. The fine 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: MORTGAGE BANKING
320 West Washington, 6th Floor
Springfield, IL 62786**

ORDERED THIS 22ND DAY OF JUNE, 2011

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

DIVISION OF BANKING

MANUEL FLORES, 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. 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.*].