

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF BANKING

IN THE MATTER OF:)	
)	
AMERICAN FUNDING, INC.)	No. 2012-MBR-05
ATTN: James Kandu)	
5800 North Lincoln Avenue, Unit #A)	
Chicago, IL 60659)	
License No. MB.0005849)	

ORDER REVOKING LICENSE & ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, (“Department”), having investigated the activities of American Funding, Inc. (“American Funding”) 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(u) of the Act requires that the licensee will submit to periodic examination by the Director as required by this Act.
2. Section 4-1(j) of the Act requires that every licensee will submit to examine the books and records at intervals as specified in Section 4-2 of under this Act.
3. Section 4-1(q) of the Act states that the Director will assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Director determines appropriate and to charge the licensee for reasonable and necessary expenses of the Director.
4. Section 4-2(a) of the Act states that the business affairs of a licensee under this Act shall be examined for compliance with this Act as often as the Director deems necessary and proper.
5. Section 4-2(d) of the Act states that the expenses of any examination of a licensee shall be borne by the licensee and assessed by the Commissioner as established by regulation.
6. 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.

7. Section 4-5(i)(11) of the Act provides that failure to comply with any order of the Director or rule made or issued under the provisions of this Act shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.
8. Section 4-5(i)(13) of the Act provides that failure to pay in a timely manner any fee, charge or fine under this Act shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.
9. Section 4-5(i)(14) of the Act provides that failure to maintain, preserve, and keep available for examination, all books, accounts or other documents required by the provisions of this Act and the rules of the Director shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.
10. Section 4-5(i)(15) of the Act provides that refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.
11. Section 4-5(i)(17) of the Act provides that failure to comply with or violation of any provision of this Act shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.

FACTUAL FINDINGS

12. That the Department's Mortgage Examination Section ("Examination Section") attempted to schedule and conduct an examination by placing telephone calls to Licensee during the months of November and December, 2011.
13. That the Examiner calls were not answered by Licensee and that on November 23, 2011, the Examiner conducted a site visit to said location at 5800 North Lincoln Avenue, Unit #A, and spoke with an employee of another business in said location/office space.
14. That the Examination Section closed and cancelled its exam file, and on or around December 12, 2011, that Examination Section referred this examination file to Legal with the recommendation that a license revocation action be taken against Licensee.
15. The DOB Legal Section created an enforcement issue for Licensee due to Licensee's failure to permit examination as required by the Act and Rules, and citing the aforementioned violations.
16. That Licensee has failed to pay its outstanding exam fee of \$2,278, failed repeatedly to respond to the Department's supervisory requests, failed to submit financials which has hindered the Department's position to verify Licensee's net worth, and that the Department's records show no evidence of payment(s) on file that Licensee has timely paid its outstanding fine(s) assessed by Order No. 2011-MBR-48 and Order No. 2011-MBR-71.

LEGAL CONCLUSIONS

17. American Funding violated, and otherwise failed to meet the standards of Sections 2-4(u), 4-1(j) (q), 4-2(a) (d), and 4-5(i)(11), (13), (14), (15) of the Act and Sections 1050.210(d), 1050.425, 1050.475, and 1050.480, and is in further violation of Sections 4-5(i)(11) and (17) of the Act.

NOW IT IS HEREBY ORDERED THAT:

1. The Department **REVOKES** American Funding, Inc. License No. MB.0005849 pursuant to Section 4-5(h)(1) of the Act for failure to submit to examination and other violations of the Act and Rules cited herein.
2. The Department assesses a **FINE** against License No. MB.00005849 in the amount of **\$10,000** pursuant to Section 4-5(h)(5) of the Act for multiple violations of the Act and Rules cited herein. 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 27TH DAY OF MARCH, 2012

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.*].