

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
)
FIRST CAPITAL MORTGAGE SERVICES, INC.) No. 2012-MBR-17
ATTN: Pamela Brennan)
1216 Usher Drive)
O'Fallon, IL 62269)
License No. MB.0005677)

ORDER REVOKING LICENSE & ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having reviewed the activities of First Capital Mortgage Services, Inc. (“Licensee”) 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(t) of the Act provides that each application for a license or renewal of a license shall be accompanied by an averment that the applicant 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.
2. Section 2-6(e) of the Act provides that a licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall inform the Department in writing and, at the same time convey the license and all other symbols or indicia of licensure. The licensee shall include a plan for withdrawal from regulated business, including a timetable for the disposition of the business, and comply with the Department’s surrender guidelines or requirements.
3. Section 4-5(h)(1) of the Act provides that when the Director of the Division of Banking (“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.
4. Section 4-5(h)(5) 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 imposing a fine not to exceed \$25,000 for each count of separate offense.
5. 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 specified Section 4-5(h) of the Act.

6. 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 specified in Section 4-5(h) of the Act.
7. 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 specified in Section 4-5(h) of the Act.

FACTUAL FINDINGS

8. First Capital, with its corporate office of record located at 1216 Usher Drive, O'Fallon, Illinois 62269, holds inactive Illinois residential mortgage license number MB.0005677 ("License") with an expiration date of August 31, 2010.
9. On May 3, 2010, First Capital submitted a License surrender application. However, the License surrender application could not be processed due to a deficiency item created for First Capital in failing to respond as required to the Department's Loan Servicer/Loan Modification Semi-Annual Survey for the reporting period of July 1 through December 31, 2009. The Department's surrender guidelines require as a condition to approve a license surrender that the applicant-licensee must verify that it has no outstanding fees or pending compliance issues with the Department.
10. On August 17, 2010, First Capital was disciplined in the amount of a \$500 fine for the aforementioned deficiency pursuant to Department order number 2010-MBR-77 ("Order").
11. The Department has not received said fine from First Capital, or its insurance provider via claim placed upon its surety bond, and First Capital has ceased business activities without properly surrendering the License.

LEGAL CONCLUSIONS

12. First Capital has violated Sections 2-4(t), 2-6(e), and 4-5(i)(11),(13), & (17) of the Act.

NOW IT IS HEREBY ORDERED THAT:

1. The Department **REVOKES** First Capital's Illinois residential mortgage license number MB.0005677 pursuant to Section 4-5(h)(1) of the Act.
2. The Department assesses a **FINE** against First Capital in the amount of **\$10,000** pursuant to Section 4-5(h)(5) 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: FISCAL DIVISION
320 W. Washington, 5th Floor
Springfield, Illinois, 62786**

ORDERED THIS 18TH DAY OF JULY, 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, 5th 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.*].