

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
)
) No. 2013-MBR-03
CAPITAL FINANCIAL BANCORP, INC.)
 License No. MB.0004796)
 Attention: Michael J. O'Brien)
 1699 E Woodfield Road, Suite 500)
 Schaumburg, IL 60173)

ORDER ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having conducted a review of data entry practices by Capital Financial Bancorp, Inc. (“Licensee” or “Capital Financial”) into the Anti-Predatory Lending Database (“APLD”) and documented violations of the Residential Mortgage License Act of 1987 (“RMLA”) [205 ILCS 635], the rules promulgated under the Act (“Rules”) [38 Ill. Adm. Code 1050], and the Residential Real Property Disclosure Act (“RRPDA”) [765 ILCS 77], hereby issues this Order pursuant to the authority provided under Sections 4-1(h-1) and 4-5(h)(5) of RMLA.

STATUTORY PROVISIONS

1. Section 2-4 of RMLA requires applicants to make certain averments to the Department, of which failure to fulfill the obligations of an averment shall subject the licensee to penalty, including the requirement to comply with the provisions of RMLA, or with any lawful order, rule or regulation made or issued under the provisions of RMLA.
2. Section 4-1(h-1) of RMLA grants the Department the authority to 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 purpose of administering the provisions of RMLA and any rule adopted in accordance with RMLA.
3. Section 4-5(h)(5) of RMLA states, in part, the Secretary may enter an order imposing a fine not to exceed \$25,000 for each count of separate offense upon a finding that there has been a violation of the grounds set forth in subsection (i).
4. Section 4-5(i) of RMLA sets forth acts that constitute grounds for which the disciplinary action specified in subsection (h) above may be taken against a licensee, including in subsection (11) failure to comply with any Department order or rule made or issued under the provisions of RMLA.
5. Section 1050.1140 of the Rules states that loan application procedures shall comply with RMLA and applicable Federal and State law and regulations, including, but not limited to, the Consumer

Credit Protection Act (15 USC 1601 et seq.), including Title VII (Equal Credit Opportunity Act) and Title I (Truth in Lending Act) of that Act, and the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505].

6. Section 70(c) of the RRPDA requires a mortgage broker or loan originator to submit to the APLD all of the information required in RRPDA Section 72, and any other information required by the Department by rule, for any mortgage on residential property within the program area.
7. Section 72 of the RRPDA, in relevant part, requires a mortgage broker or loan originator to submit for inclusion in the APLD for each loan for which the originator takes an application, the borrower's income and expense information, including total monthly consumer debt, contained in the mortgage application.

FACTUAL FINDINGS

8. Capital Financial, with its licensed and principal place of business of record located at 1699 E Woodfield Road, Suite 500, Schaumburg, Illinois, is a residential mortgage broker holding active Illinois residential mortgage license number MB.0004796 with an expiration date of 12/31/2013.
9. On August 11, 2011, the Department posted a notice titled "Accurate Entry in the APLD" on its website, which stated that the APLD Program "requires that all information entered in the database be true, correct and accurate." It further stated that "It is not acceptable to enter a nominal amount such as \$1.00 as borrower income."
10. Capital Financial entered loans into the APLD in the First Quarter (December 1, 2011 – February 29, 2012) and the Second Quarter (March 3, 2012 – May 31, 2012).
11. In April 2012, the Department initiated a review of APLD data entry practices with regard to the accuracy of data entered in the aforementioned Quarters.
12. The Department sent a letter dated April 13, 2012 to Capital Financial, which specifically addressed inaccurate APLD data entry practices and warned that "Henceforth, fines will be imposed for clearly inaccurate data entry." The Department also sent a follow-up letter dated April 24, 2012 in response to questions from licensees regarding the April 13 letter and reiterated that "if a nominal figure such as \$1.00 or \$2.00 is entered, such a figure cannot be accurate under any circumstances and disciplinary action will result."
13. The Department found that the Licensee entered inaccurate information in the "Borrower's Income" field in violation of Illinois law for 21 loans entered into the APLD during the aforementioned Quarters.
14. The inaccurate APLD entries were made for the following loan application numbers on the respective entry dates:

	LOAN APPLICATION ID	ENTRY DATE	VIOLATION
1.	297894	12/20/11	INACCURATE INCOME ENTRY
2.	299944	12/29/11	Inaccurate Income Entry
3.	304005	1/17/12	Inaccurate Income Entry
4.	306012	1/24/12	Inaccurate Income Entry
5.	308029	1/30/12	Inaccurate Income Entry
6.	311367	2/9/12	Inaccurate Income Entry
7.	312971	2/15/12	Inaccurate Income Entry
8.	313827	2/17/12	Inaccurate Income Entry
9.	314272	2/20/12	Inaccurate Income Entry
10.	316895	2/28/12	Inaccurate Income Entry
11.	316925	2/28/12	Inaccurate Income Entry
12.	319819	3/7/12	Inaccurate Income Entry
13.	321612	3/13/12	Inaccurate Income Entry
14.	321653	3/13/12	Inaccurate Income Entry
15.	323680	3/21/12	Inaccurate Income Entry
16.	325528	3/27/12	Inaccurate Income Entry
17.	326217	3/29/12	Inaccurate Income Entry
18.	328139	4/4/12	Inaccurate Income Entry
19.	328441	4/5/12	Inaccurate Income Entry
20.	328516	4/5/12	Inaccurate Income Entry
21.	329410	4/10/12	Inaccurate Income Entry

LEGAL CONCLUSIONS

15. The Licensee has violated RMLA Sections 2-4 and 4-5(i)(11), Rules Section 1050.1140, and RRPDA Sections 70(c) and 72.

NOW IT IS HEREBY ORDERED THAT,

1. The Department assesses a **FINE** against Licensee in the amount of \$21,000 (21 violations at \$1,000) pursuant to RMLA Sections 4-1(h-1) and 4-5(h)(5) for the violations 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 11TH DAY OF FEBRUARY, 2013

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
MANUEL FLORES, ACTING SECRETARY

DIVISION OF BANKING

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].