

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
) No. 2014-MBR-07
ABSOLUTE MORTGAGE FUNDING, INC.)
License No. MB. 6759661)
Attention: Richard Spano)
1247 Ward Avenue, Unit 200A)
West Chester, PA 19380)

ORDER REVOKING
LICENSE AND ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, DIVISION OF BANKING (“Department”), having examined the activities of ABSOLUTE MORTGAGE FUNDING, INC. (“AMF”), and having found violations of the Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635/1 *et seq.*], 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 REVOKING LICENSE AND ASSESSING FINE.

STATUTORY PROVISIONS

1. Section 4-1(h-1) of the Act provides the Director of the Department (“Director”) the authority to issue orders against any person if the Director 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 Director, or for the purposes of administering the provisions of the Act and any rule adopted in accordance with the Act.
2. Section 2-4 of the Act requires applicants/licenseses to make certain averments to the Department. Failure to fulfill the obligations of an averment including the requirements under subsection (b) to maintain staff reasonably adequate to meet the requirements of 3-4, under subsection (d) to file with the Department any required reports and under subsection.
3. Section 2-6(e) of the Act provides that a licensee ceasing activities and desiring to no longer be licensed must: 1) inform the Department in writing of such intent; 2) convey the license and all other indicia of licensure; 3) provide the Department with a plan for withdrawal from regulated business that includes a timetable for the disposition of the business; and 4) comply with the Department’s surrender guidelines and requirements.
4. Section 3-4(b)(2) of the Act provides that a licensee whose principal office is located outside of Illinois is required to have a minimum net worth of \$150,000 per Act section 3-2.

5. Section 3-5 of the Act requires a licensee engaging in mortgage banking activities to maintain a minimum of \$150,000 net worth at all times.
6. Section 4-2(b) of the Act provides the Secretary shall prepare a sufficiently detailed report of each licensee's examination, shall issue a copy of such report to each licensee's principals, officers or directors, and shall take appropriate steps to ensure correction of the violations of the Act.
7. 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 to revoke the person's license.
8. 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 a fine of up to \$25,000 for each count of a separate offense.
9. Section 4-5(i) of the Act provides grounds for discipline. A licensee violates Section 4-5(i) subsection (11) by failing to comply with any order of the Director or rule made or issued under the provisions of this Act; (13) by failing to pay in a timely manner any fee, charge or fine under this Act; subsection (14) by failing 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; subsection (17) by failing to comply with or violation of any provision of the Act; and subsection (18) by failing to comply with, or violation of any provision of, Article 3 of the RRPDA.
10. Section 77/70(c) of the RRPDA requires a mortgage loan broker or loan originator to submit to the Anti-Predatory Lending Database ("APLD") all information required in RRPDA Section 72, and all other information required by the Department for any mortgage on residential property in the program area.
11. Section 1050.475 of the Rules provides that each licensee shall provide at least 10 business days advance written notice to the Director in order to: 1) close a full service office; or 2) discontinue any brokering, originating, or servicing under the Act.
12. Section 1050.1010 of the Rules states that before a mortgage loan applicant signs a completed residential mortgage loan application or gives the licensee any consideration, whichever comes first, a loan brokerage agreement shall be required and shall be in writing and signed by both the mortgage loan applicant and a licensee whose services to the customer shall be loan brokering as defined in Section 1-4(o) of the Act ("Loan Brokerage Agreement").
13. Section 1050.1305 of the Rules requires that immediately upon approval of a residential mortgage loan application, the licensee shall deliver to the borrower a written loan approval notice stating the terms and condition of the residential mortgage loan agreed to by the licensee and borrower ("Approval Notice").
14. Section 1050.1175 of the Rules requires a licensee engaged in loan brokerage or loan origination activities to maintain a loan log with required information for each residential mortgage loan application, including the name of the mortgage loan originator taking the loan application.
15. Section 1050.1177 of the Rules state that all licensees engaged in loan brokering or originating shall maintain a loan application file for each loan application that contains certain information

such as the Loan Brokerage Agreement and appraisal and all other documents in or related to the loan file.

FACTUAL FINDINGS

16. AMF, having its corporate office at 1247 Ward Avenue, Unit 200A, West Chester, Pennsylvania 19380, is a residential mortgage broker holding Illinois residential mortgage license number MB. 6759661 (“License”) with an expiration date of December 31, 2013. Richard Spano (“Spano”) is the owner of record of AMF in the Department’s licensing records.
17. The Department opened a regular examination of AMF on or about November 12, 2013 for the period September 1, 2010 to July 31, 2013 (the “Examination”).
18. The Department issued a Report of Examination to AMF finding that AMF had committed numerous violations of the Act, Rules, and RRPDA. These included failure to meet net worth, failure to enter loans into the APLD, and Loan Brokerage Agreements that were missing signatures, dates, and/or loan originator information. Several loan application files were missing the Loan Brokerage Agreements, Approval Notices, and/or appraisal reports. The Examination also found inadequate staff and the loan log was missing many required fields of information. These Examination findings caused AMF to receive an adverse rating which transferred the file to the Mortgage Banking Supervision Section (“Supervision”) to attempt to bring AMF into compliance.
19. AMF had thirty days from the receipt of the Report of Examination to pay for the Examination. AMF failed to pay its exam fee of \$1,224 which had to be paid from its surety bond through a claim.
20. After AMF was issued the Report of Examination, AMF was sent a letter on January 13, 2014 informing them that they were required to attend a meeting with the Department on February 26, 2014. On February 24, 2014, the Department’s Manager of Administrative Compliance attempted to contact Sarah Benfer (“Benfer”), an office manager of AMF, by electronic mail and by telephone but the call would not connect.
21. Benfer responded by email on February 24, 2014, and informed the Compliance Administrator that AMF did not fully complete the 2014 license renewal process and they put operations on hold earlier in the year. The email also stated that AMF decided to surrender its License.
22. Subsequently, Benfer was informed by the Department that AMF still needed to participate in the Supervision conference call which was postponed to February 27, 2014.
23. Benfer stated that she would be contacting the Compliance Administrator on her personal cell phone because the company had disconnected its telephones.
24. Through the phone conference, Benfer stated that many key people had left AMF already and she was shut out of AMF’s reporting software.
25. Benfer was directed by the Compliance Administrator to respond to the Examination findings in writing. In her response she further indicated that there was no one left in the company and agreed with most of the exam findings including AMF’s failure to maintain its net worth.

26. On May 8, 2014 AMF submitted an incomplete surrender application.

LEGAL CONCLUSIONS

27. AMF acted unsafely, unsoundly, and unlawfully by committing numerous violations as found in the Report of Examination, by failing to complete its supervision so that the Director could take appropriate steps to ensure correction of AMF's cited violations, and by seeking to surrender its License without proper notice to and approvals by the Department.

28. AMF failed to pay in a timely manner its exam fee to the Department.

29. The Department concludes that AMF violated Sections 2-4(b) & (d), 2-6(e), 3-4(b)(2), 3-5, 4-1(h-1), 4-5(i)(11),(13),(14),(17)&(18), of the Act and Sections 1050.1010, 1050.1305, 1050.475, 1050.1175, and 1050.1177 of the Rules. Additionally, AMF was in violation of 77/70 of the RRPDA.

NOW IT IS HEREBY ORDERED THAT:

1. The Department **REVOKES** ABSOLUTE MORTGAGE FUNDING, INC.'s License number MB. 6759661 pursuant to Sections 4-1(h-1) and 4-5(h)(1) of the Act.
2. The Department assesses a **FINE** against ABSOLUTE MORTGAGE FUNDING, INC. pursuant to Section 4-5(h)(5) of the Act in the amount of \$10,000. The fine is payable by certified check or money order within thirty (30) days after 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 17TH DAY OF NOVEMBER, 2014

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF BANKING

SHEILA SAEGH HENRETTA
ACTING 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 affected party may file a request for a hearing on a decision by the Director. The request for a hearing and \$500 hearing fee is payable by certified check or money order and must be filed with the Department at 320 West Washington Street, 5th Floor, and Springfield, IL 62786 within 10 days after the appealing party's receipt of this Order. The request for hearing must include an explicit admission, denial, or appropriate response to each allegation or issue contained in this Order pursuant to 38 Ill. Adm. Code 1050.1570. After receipt of a proper and timely request for hearing, 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].