

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:

)

No. 2015-MBR-03

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AMERICA ONE ACCEPTANCE CORPORATION

)

License No. MB.6760545

)

Attention: Scott Michaels

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135 Park Ave., Suite 208

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Barrington, IL 60010

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ORDER REVOKING LICENSE AND ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, DIVISION OF BANKING (“Department”), having examined and reviewed the activities of AMERICA ONE ACCEPTANCE CORPORATION (“AMERICA ONE”), 135 Park Ave., Suite 208, Barrington, Illinois 60010, and making findings under the Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635], the rules promulgated thereunder (“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 2-6 of the Act provides that an Illinois Residential Mortgage License shall be renewed on the common renewal date of the Nationwide Mortgage Licensing System (“NMLS”) upon a licensee submitting a properly completed renewal application form. It is the responsibility of each licensee to timely accomplish renewal of its license. A licensee ceasing activities regulated by the Act and desiring to no longer be licensed must inform the Department in writing, convey the license, provide a plan for withdrawal from the regulated business, and comply with the Department’s surrender guidelines.
2. Section 3-1 of the Act requires a licensee to maintain a surety bond payable to the Department and authorizes the Department to promulgate rules with respect to bonding requirements for the licensee and its mortgage loan originators.
3. Section 3-2 of the Act requires a mortgage broker licensee with an Illinois office to file annual financial statements with the Department or NMLS within 90 days after the end of the licensee’s fiscal year.
4. Section 3-5 of the Act requires a mortgage broker licensee with an Illinois office to maintain net worth of not less than \$50,000.
5. Section 4-1(h-1) of the Act provides that the Department may issue orders against any person if the Department has reason 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 about to violate any

law, rule or written agreement with the Department, or for the purpose of administering the provisions of the Act and any rule adopted in accordance with the Act.

6. Section 4-5 of the Act provides that when the Department finds any person in violation of the grounds set forth in subsection (i), the Department may enter an order revoking a license as authorized by subsection (h)(1) and fining a license up to \$25,000 for each count of separate offense as authorized by subsection (h)(5). A licensee violates Section 4-5(i) of the Act due to: (11) failure to comply with any order of the Department or rule made or issued under provisions of the Act; (13) failure to pay in a timely manner any fee, charge, or fine under the Act; (17) failure to comply with or violation of any provision of the Act; and (18) failure to comply with or violation of any provision of Article 3 of the RRPDA.
7. Section 1050.430 of the Rules provides that the failure to deliver audit reports within 90 days after the date specified in Section 3-2 of the Act, unless extended for cause by the Department, shall subject the licensee to payment of a fee at the rate of \$50 per calendar day for each day that such failure is continuing for up to three months.
8. Section 1050.480 of the Rules requires each licensee to file a change of address with the Department at least 10 days before the proposed effective date of such change.
9. Section 1050.490 of the Rules requires each licensee to maintain a surety bond in conformance with Section 3-1 of the Act. The surety bond shall be payable to the Department, in the amount of \$25,000 to \$150,000 depending upon volume of Illinois licensed activities, concurrent with the term of the license, and cover licensee and mortgage loan originator activities.
10. Section 70 of the RRPDA requires the residential mortgage broker or originator to submit all required information within 10 business days after taking a mortgage application on residential property within the program area into the Anti-Predatory Lending Database (“APLD”).

FACTUAL FINDINGS

11. On July 9, 2014, the Department posted a deficiency notice to AMERICA ONE on the NMLS informing AMERICA ONE of non-receipt of its financial statements for fiscal year ending December 31, 2013 (“2013 Financials”). The Department notified AMERICA ONE that the maximum \$4,500 late audit fee was owed and AMERICA ONE would be unable to renew its Illinois Residential Mortgage License No. MB.6760545 (“License”) for calendar year 2015 without providing the 2013 Financials as required by the Act and Rules. The Department had previously issued to AMERICA ONE Order No. 2014-MBR-05 on March 24, 2014 assessing a \$4,500 fine for failing to pay its \$4,500 late audit fee in connection with late filing of its financial statements for fiscal year ending December 31, 2012 (“2012 Financials”).
12. On November 1, 2014, the NMLS opened its calendar year 2015 license renewal process to receive timely applications, including from AMERICA ONE for renewal of its License.
13. On December 19, 2014, the Department notified mortgage banking and mortgage loan originator renewal license applicants of the extension of the renewal period for timely applicants. Said notice was posted to all licensees on the Department’s website. Said notice provided, in pertinent part, that a mortgage banking licensee that had submitted its 2015 renewal by December 31, 2014, but was awaiting Department determination, would remain active and could

continue to operate under its current 2014 license until January 31, 2015, provided that the licensee maintained bond coverage during such period.

14. On December 31, 2014, AMERICA ONE submitted its 2015 License renewal application, including its 2013 Financials. AMERICA ONE did not submit a new surety bond for the period January 1, 2015 to December 31, 2015, and its surety bond filed with the Department expired on December 31, 2014. The Department later found the 2013 Financials to not meet the minimum net worth requirement of the Act.
15. On January 22, 2015, the Department's Licensing Section posted a deficiency notice to the NMLS for AMERICA ONE. Said deficiency notice advised AMERICA ONE that the Department did not have a current surety bond for AMERICA ONE and asked AMERICA ONE to upload proof of a current surety bond to the NMLS.
16. On March 3, 2015, the Department terminated the active license status in the NMLS of all non-renewed mortgage banking licensees. AMERICA ONE's License was terminated at this time for not meeting the requirements for renewal of its 2015 License.
17. On March 13, 2015, the Department's Legal Section mailed AMERICA ONE a Potential Disciplinary Letter for failure to renew or surrender its License, failure to pay its late audit fee for late submission of its 2013 Financials, and failure to respond to Department regulatory requests and provide a current office address.
18. On March 30, 2015, Scott Michaels ("Michaels"), owner of AMERICA ONE, called the Department with information that AMERICA ONE had up to five (5) Illinois residential mortgage loan applications requiring late-entry of loan information into the APLD.
19. Later on March 30, 2015 and at the Department's request, Michaels provided a copy of AMERICA ONE's loan log of non-closed loans. Said loan log revealed that AMERICA ONE took loan applications from borrowers on the following dates: January 29, 2015 (2 applications), February 18, 2015, February 20, 2015, and February 27, 2015. Michaels was identified as the mortgage loan originator in the loan log for all five of the loan applications.
20. On April 3, 2015, AMERICA ONE filed a change of address in the NMLS. AMERICA ONE replaced in the NMLS the address of record with the Department of 210 E. Station Street, Suite 1, Barrington, Illinois 60010 with the new address of 135 Park Ave., Suite 208, Barrington, Illinois 60010.
21. The Department subsequently advised Michaels that specific loans set for closing would not be approved by the Department due to AMERICA ONE's failure to provide surety bond coverage and come into compliance.

LEGAL CONCLUSION

22. The Department finds AMERICA ONE to have acted in an unsafe and unsound manner by accepting loan applications from borrowers without a current surety bond in violation of the Act and Rules, and contrary to the Department's notice to AMERICA ONE on December 19, 2014.

23. AMERICA ONE is in further violation of Sections 2-6, 3-1, 3-2, 3-5 and 4-5(i)(11), (13), (17) & (18) of the Act, Sections 1050.430, 1050.480, and 1050.490 of the Rules, and Section 70 of the RRPDA.

NOW IT IS HEREBY ORDERED THAT,

1. The Department **REVOKES** AMERICA ONE ACCEPTANCE CORPORATION's Illinois Residential Mortgage License No. MB.6760545 pursuant to Sections 4-1(h-1) and 4-5(h) (1) of the Act.
2. The Department assesses a **FINE** against AMERICA ONE ACCEPTANCE CORPORATION pursuant to Section 4-5(h)(5) of the Act in the amount of \$4,500 for its unpaid late audit fee for its filing of the 2013 Financials. 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 ____ DAY OF _____, 2015

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF BANKING

MICHAEL J. MANNION
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 must be filed with the Department at 320 West Washington Street, 5th Floor, Springfield, IL 62786 within 10 days after the appealing party's receipt of this Order; a \$500 hearing fee payable to the Department by cashier's check or money order must be filed with the hearing request. 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].