

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
)
) **No. 2020-MBR-01**
APPROVED FUNDING CORP.)
License No. MB. 6761173; NMLS ID 5411)
Attention: Elliot Rosenfeld)
41 Grand Ave)
Suite 200)
River Edge, NJ 07661)

ORDER REFUSE TO RENEW

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having conducted an examination of **APPROVED FUNDING, CORP.** (“**APPROVED FUNDING**”), and having documented violations of the Residential Mortgage License Act of 1987 (“Act”) [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.

STATUTORY PROVISIONS

1. Section 2-2 of the Act requires the Department to issue positive findings of financial responsibility, experience, character and general fitness of a licensee in order to renew its Illinois residential mortgage license.
2. Section 2-4 of the Act lists prohibited acts and practices for licensees. It is a violation of the Act for a licensee subject to the Act to: (d) fail to file with the Secretary or Nationwide Multistate Licensing System and Registry (“NMLS”) as applicable, when due, any report the licensee is required to file under any provisions of the Act; (t) fail to comply with the provisions of the Act, or with any lawful order, rule, or regulation made or issued under the provisions of the Act, and (u) fail to submit to periodic examination by this Act Secretary as required by this Act.
3. Section 2-5 of the Act provides that the Director of the Division of Banking of the Department of Financial and Professional Regulation (“Director”) may refuse to renew a license if it is determined that the licensee is not in compliance with the Act and the Director cannot make the findings specified in Section 2-2 of the Act.
4. Section 3-2(d) of the Act provides that the most recent audit report shall be filed with the Director within 90 days after the end of the licensee’s fiscal year. The report filed with the Director shall be certified by the certified public accountant conducting the audit. The Director may promulgate rules regarding late audit reports.

5. Section 4-5(h)(6) of the Act provides that when the Director finds any person in violation of the grounds set forth in subsection (i), the Director may deny the license.
6. Section 4-5(i) of the Act sets forth a list of acts that constitute grounds for which the disciplinary action specified in subsection (h) above may be taken, including among others: (14) 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 Commissioner, and (17) failure to comply with or violation of any provision of this Act, and (18) failure to comply with or violation of any provision of Article 3 of the RRPDA.
7. Section 5-6 of the Act provides, in part, that no license may make, provide or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay principal and interest on the loan, real estate taxes, homeowner's insurance, assessments, and mortgage insurance premiums, if applicable. The licensee must verify the borrower's income and financial resources by tax returns, payroll receipts, bank records, or other reasonably reliable methods, based upon the circumstances of the proposed loan.
8. Section 5-11 of the Act requires licensees to provide the borrower a complete copy of any appraisal obtained by the lender for use in underwriting the residential mortgage loan within three business days of receipt by the licensee, but in no event less than 24 hours prior to the date of closing.
9. 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.
10. Section 1050.480 of the Rules (a) requires each licensee and prospective purchaser to file a completed change of ownership or control application with the Department at least ten (10) days prior to the proposed date of change. The filing of the change of ownership or control application allows the Department to determine whether such a change would alter findings for a new license as set forth in Section 2-2(a) of the Act or would change materially any of the information in the licensee's new license application or renewal license application, and (b) at least 10 days before the proposed effective date of the change, a licensee shall file with the Director a completed Application for Change of Name or Address on a form prescribed by the Director and accompanied by the fee set forth in Section 1050.210 of this Part.
11. Section 1050.810 of the Rules provides that for New Loans Payment instructions shall be issued in time to reasonably assure receipt by the customer at least 15 days before the first payment is due and shall include, but not be limited to the following: a) The name, address and telephone number of the entity to whom payments are to be made and the name of the person to whom inquiries should be directed. Such phone numbers shall be toll free to the customer; b) The exact amount of the monthly payment and a plain English explanation of the method of calculation; and c) A clear and conspicuous statement as to monthly date of each payment, regardless of interval between due date and assessment of any late-payment penalty.
12. Section 1050.1110 of the Rules provides that before a borrower signs a completed residential mortgage loan application or gives the licensee any consideration, whichever comes first, the licensee shall give the borrower a Borrower Information Document. Subsection (a) requires a Regulatory Disclosure Statement" to be included setting forth those exhibits and materials to be

received in connection with a residential mortgage loan application, name of licensee and license number, and identifying the Department as the regulator for the licensee. Subsection (d) requires the inclusion of a Good Faith Estimate of Costs. Subsection (i) requires a borrower to acknowledge by way of a “Dated Customer Acknowledgement” that the borrower received each of the required disclosures and showing date of receipt.

13. Section 1050.1175 of the Rules requires a licensee engaged in loan brokerage or loan origination 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
14. 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.
15. 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 Illinois Anti-Predatory Lending Database (“APLD”).

FACTUAL FINDINGS

16. APPROVED FUNDING was first issued its Illinois Residential Mortgage License on June 20, 2016.
17. On or about April 2, 2019, the Department completed its regular examination of APPROVED FUNDING for the period of June 20, 2016 to December 31, 2018 (“Examination”).
18. The Department issued a Report of Examination (“ROE”) to APPROVED FUNDING finding that APPROVED FUNDING had committed numerous violations of the Act, Rules, and RRPDA, including:
 - i. Failure to enter loans into the APLD within ten days.
 - ii. Failure to produce requested documents from the Pre-Examination Alert Requirements Letter (“PEARL”) including two loan files, a loan log, and TILA-RESPA Integrated Disclosure (TRID) policy. On May 9, 2019, APPROVED FUNDING was also sent an Exit Interview Discussion Sheet which stated that APPROVED FUNDING was in violation for failing to produce the documentation requested in the PEARL. On May 14, 2019, APPROVED FUNDING did not respond to the Department regarding the Exit Interview Discussion Sheet, however, APPROVED FUNDING uploaded the requested two loan files, and a loan log for loans originated nationwide.
 - iii. Failure to timely submit financial statements to the NMLS. For the calendar year 2018, APPROVED FUNDING submitted financial statements to the NMLS on May 15, 2019. The submission of this financial report was late relative to the 90-day filing requirement. A similar pattern was found of late submission of financial statements in 2017 and 2018. Per letter dated June 4, 2019, the Department assessed the licensee with a \$2,250 late filing fee.
 - iv. Failure to verify borrower’s ability to repay by verifying tax returns, payroll receipts or other reasonably reliable methods for borrowers M.B. and L.I. Licensee also did not verify bank statements for source of funds required at closing for M.B. and L.I.
 - v. Failure to provide evidence of delivering the appraisal to the borrowers M.B. and L.I.

- vi. Failure to file with the Department the required Notice of Change of Ownership. The current ownership records reviewed during the Examination do not match what was on file with the Department.
 - vii. Failure to provide a toll-free number on the first payment letters found in both M.B. and L.I. reviewed closed loan files.
 - viii. Failure to include the Borrower Information Document in both M.B. and L.I. loan files.
 - ix. Failure to provide a loan log that only contained Illinois loans. Numerous items were missing from the loan log, such as borrower's or borrowers' employer's name, borrower's or borrowers' employer's address, property seller's name or names, Mortgage Loan Originator Unique Identifier, processor's name or names, appraiser's name or names, and appraiser's or appraisers' license number.
 - x. Failure in both M.B. and L.I. loan files to retain all initial disclosures, including initial loan application and TRID disclosures, appraisal report, credit report, purchase agreement, income documents, and bank statements.
19. These Examination findings caused APPROVED FUNDING to receive an adverse rating, and APPROVED FUNDING's file was transferred to the Mortgage Banking Supervision Section ("Supervision") to attempt to bring APPROVED FUNDING into compliance.
 20. On July 10, 2019, Supervision sent a letter via email requesting a written response to the violations cited in the Examination and to include the supporting documents ("July Letter"). The due date for the response by APPROVED FUNDING was July 31, 2019.
 21. On August 5, 2019, Supervision sent a follow-up letter requesting the overdue response for the July Letter.
 22. On November 28, 2019, a final request was sent for the information requested in the July Letter.
 23. On November 29, 2019, APPROVED FUNDING requested an extension to file a response.
 24. This extension was granted, and the new due date was set for December 9, 2019.
 25. On December 12, 2019, an additional email was sent to APPROVED FUNDING to respond before December 16, 2019 or the case would be referred to the Legal Section for enforcement.
 26. As of today, APPROVED FUNDING has not responded to Supervision.

LEGAL CONCLUSIONS

27. Approved Funding is in violation of Sections 2-2, 2-4(d), (t) & (u), 3-2(d), 4-5(i)(14),(17)&(18), 5-6, and 5-11 of the Act and Sections 1050.430, 1050.480(a)&(b), 1050.810, 1050.1110, 1050.1175, and 1050.1177 of the Rules, and Section 70 of Article 3 of the RRPDA.

NOW IT IS HEREBY ORDERED THAT,

The Department REFUSES TO RENEW and denies **APPROVED FUNDING, CORP.**, its LICENSE pursuant to Section 2-5 and 4-5(h) (6) of the Act.

ORDERED THIS ____ DAY OF _____, 2020

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF BANKING

CHASSE REHWINKEL
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 payable by certified check or money order 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].