

**STATE OF MCHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Scott Wayne Pearce
NMLS No. 174408

Enforcement Case No. 11-11172

Applicant
_____ /

Issued and entered

on March 9, 2011

Stephen R. Hilker
Chief Deputy Commissioner

**ORDER OF DENIAL OF APPLICATION FOR MORTGAGE
LOAN ORIGINATOR LICENSE**

A. STATEMENT OF LAW

It is alleged that the following statements are true and correct:

1. The Office of Financial and Insurance Regulation (OFIR) is responsible for the licensing and regulation of mortgage loan originators and the enforcement of the provisions of the Mortgage Loan Originator Licensing Act, (Act) 2009 PA 75, as amended, MCL 493.131 *et. seq.*
2. Under Michigan law an applicant may have a right to appeal this Order.
3. Section 3(i) of the Act, MCL 493.133(i), states:
 - (i) 'Licensed mortgage loan originator' means a mortgage loan originator who holds a valid license issued by the commissioner under this act.
4. Section 3(l) of the Act, MCL 493.133(l)¹, states:

¹ PA 356 of 2010, effective December 20, 2010 amended Section 3(l) of the Act, MCL 493.133(l). Section 3(l) of the Act previously stated: "Mortgage loan originator' means an individual who meets all of the following:

- (i) For compensation or gain or in the expectation of compensation or gain, does any of the following:
 - (A) Takes a residential mortgage loan application.
 - (B) Offers or negotiates terms of a residential mortgage loan.

(l) 'Mortgage loan originator' means an individual who originates residential mortgage loans and meets all of the following:

(i) Is not an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 5(3).

(ii) Is not a person who only performs real estate brokerage activities and is licensed or registered under the laws of this state, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of a lender, mortgage broker, or other mortgage loan originator.

(iii) Is not a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 USC 101(53D).

5. Section 5 of the Act, MCL 493.135, states in part:

(1) Subject to subsection (5), unless specifically exempted under subsection (2), beginning July 31, 2010, an individual shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license under this act. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

(2) Each of the following is exempt from this act:

(a) A registered mortgage loan originator, when acting for an entity described section 3(r)(i)(A), (B), or (C).

(b) An individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of that individual.

(c) An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as his or her residence.

(d) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a

(ii) Is not an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 5(3).

(iii) Is not a person who only performs real estate brokerage activities and is licensed or registered under the laws of this state, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of a lender, mortgage broker, or other mortgage loan originator.

(iv) Is not a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 USC 101(53D)."

lender, mortgage broker, or other mortgage loan originator or by any agent of a lender, mortgage broker, or other mortgage loan originator.

(5) An individual engaged in the business of a mortgage loan originator is not required to obtain and maintain a license under this act until July 31, 2011 if that individual is employed exclusively by a mortgage servicer; if that individual is authorized to perform loan modification activities concerning existing residential mortgage loans, and not to originate new residential mortgage loans or perform any other activities of a mortgage loan originator, on behalf of that mortgage servicer; and if this extension of time is not inconsistent with any guideline, rule, regulation, or interpretative letter of the United States department of housing and urban development concerning the interpretation of the SAFE act and its applicability to loan modification activities.

6. Section 9(1)(d) of the Act, MCL 493.139(1)(d), states:

(1) The commissioner shall not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings:

(d) The applicant has demonstrated financial responsibility, character, and general fitness that commands the confidence of the community and warrants a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this act.

7. Section 21(a) of the Act, MCL 493.151(a), states:

In addition to any other duties imposed on the commissioner under this act, the commissioner shall require mortgage loan originators to be licensed and registered through the nationwide mortgage licensing system and registry. To carry out this requirement, the commissioner is authorized to participate in the nationwide mortgage licensing system and registry and may by rule establish other requirements that he or she considers necessary, including, but not limited to, any of the following:

(a) Background checks for any of the following:

(i) The criminal history of a licensed mortgage loan originator or license applicant through fingerprint or other databases.

(ii) Information about a licensed mortgage loan originator or license applicant in civil or administrative records.

- (iii) A licensed mortgage loan originator's or license applicant's credit history.
- (iv) Any other information about a licensed mortgage loan originator or license applicant considered necessary by the nationwide mortgage licensing system and registry.

8. Section 33(1)(a) of the Act, MCL 493.163(1)(a), states:

(1) In addition to any authority provided under this act, the commissioner may conduct any of the following investigations and examinations:

(a) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this act, the commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence, including, but not limited to, any of the following:

(i) Criminal, civil, and administrative history information.

(ii) Personal history and experience information, including independent credit reports obtained from a consumer reporting agency, as defined in section 603 of the fair credit reporting act, 15 USC 1681a.

(iii) Any other documents, information, or evidence the commissioner considers relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of those documents, information, or evidence.

B. FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 9. On or about September 23, 2010, Scott Wayne Pearce submitted an application for a Mortgage Loan Originator license through the Nationwide Mortgage Licensing System and Registry.
- 10. On or about September 23, 2010, OFIR received Scott Wayne Pearce's Mortgage Loan Originator license application.
- 11. As provided in Section 5(1) of the Act, MCL 493.135(1), Scott Wayne Pearce is required to obtain a license from OFIR and register with the Nationwide Mortgage Licensing System and Registry. Section 5(2) and 5(5) of the Act, MCL 493.135(2) and 493.135(5) do not apply in this case.
- 12. As provided in Sections 21 and 33 of the Act, MCL 493.151 and 493.163, OFIR conducted an investigation/examination of Scott Wayne Pearce.

13. The result of OFIR's investigation/examination showed that Scott Wayne Pearce [REDACTED] owned Midtown Mortgage Source, Inc. (FL-1449) from 1999 – 2006. In June 2006, Mr. Pearce [REDACTED] did not renew their license for Midtown Mortgage Source, Inc. and the license became inactive in July 2006. At the time of the inactivation, Midtown Mortgage Source, Inc. had two outstanding invoices for filing financial statements late. Both invoices are still unpaid.
 - a. Invoice 725154 for \$1,000.00 for filing the 2004 financial statement 174 days late.
 - b. Invoice 744294 for \$1,000.00 for filing the 2005 financial statement 49 days late.
14. The result of OFIR's investigation/examination showed that Scott Wayne Pearce had the following unpaid civil judgments and debts:
 - a. Unpaid civil judgments in the amount of \$35,430.00.
 - b. Past due accounts of over \$75,334.00.
15. Scott Wayne Pearce's \$35,430.00 in unpaid civil judgments, \$75,334 in past due accounts, and his failure to pay two OFIR invoices does not demonstrate financial responsibility, character, and general fitness that commands the confidence of the community and warrants a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the Act.
16. Scott Wayne Pearce has failed to meet the minimum licensing requirements of Section 9 of the Act, MCL 493.139; therefore, the Commissioner is prohibited from issuing a mortgage loan originator license to Scott Wayne Pearce.

C. ORDER

Based on the Statement of Law, and the Findings of Fact and Conclusions of Law above, it is **ORDERED** that:

1. Scott Wayne Pearce's Mortgage Loan Originator license application is **DENIED**.
2. Scott Wayne Pearce shall immediately cease and desist from conducting any activities that would require licensure under the Act.



Stephen R. Hilker
Chief Deputy Commissioner

Dated: 3/9/11