

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Enforcement Case No. 18-15389

Agency No. 19-347-M

Petitioner,

v

Connect Mortgage Funding, Inc.

NMLS No. 1209544

Respondent.
_____ /

Issued and entered
on JUNE 21, 2019
by **Randall S. Gregg**
Senior Deputy Director

FINAL DECISION

I. Background

Connect Mortgage Funding, Inc. (Respondent) is a licensed mortgage broker. The Department of Insurance and Financial Services (DIFS) conducted an examination of the Respondent that found the Respondent (1) unlawfully gave items of value for the referral of a settlement service involving a federally related mortgage loan, (2) unlawfully reduced compensation or gave pricing concessions, and (3) charged customers more than the actual expenses it incurred in connection with a mortgage loan application. After investigation and verification of the information, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(1) and 500.1244(1)(a-d). Respondent replied to the NOSC but failed to demonstrate compliance with the Act.

On April 18, 2019, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent on April 19, 2019 at the address it is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to respond or take any action.

On May 30, 2019, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

II. Findings of Fact and Conclusions of Law

1. At all relevant times, Connect Mortgage Funding, Inc (NLMS No. 1209544 and License No. FL-0019462) (Respondent) was licensed as a mortgage broker under the Act.
2. DIFS Staff conducted an examination of Respondent pursuant to the Act, which began on August 21, 2017, and concluded on November 7, 2017.
3. DIFS Staff made the following findings during the examination:
 - a. Respondent did not charge borrower BD (Application Date 08-04-2016) for his credit report. Respondent did not charge BD for the credit report because BD is a real estate agent and has referred Respondent "quite a few deals." Respondent's normal course of action is to charge all customers upfront for their credit reports.
 - b. Respondent paid for the appraisal costs for borrower GR (Closing Date 03-13-2017) and did not charge GR the \$595 cost Respondent incurred. Respondent did not charge GR because this was its third deal with GR's family.
 - c. As a general practice, Respondent's applicants were charged more than the actual expense incurred by Respondent in connection with Michigan Mortgage loans. Specifically, Respondent charged an upfront fee for a credit report that was higher than the cost Respondent actually incurred in obtaining the applicant's credit report.
4. As a licensee, Respondent knew or should have known that Section 1024.12(b) of Regulation X, 12 CFR § 1024.12(b), prohibits giving a thing of value in exchange for the referral of a settlement service involving a federally related mortgage loan. Respondent violated Section 1024.12(b) by failing to charge BD for the cost incurred to obtain his credit report because BD refers business to Respondent.
5. As a licensee, Respondent knew or should have known that Section 1026.36(d)(1)(i) of Regulation Z, 12 CFR § 1026.36(d)(1)(i), specifically as interpreted by Comment 5 and 7 of the Official Interpretation, prohibits reductions in compensation or pricing concessions unless the concession is due to an unforeseen increase in an actual settlement cost over an estimated settlement cost disclosed to the consumer. Respondent violated Section 1026.36(d)(1)(i) by failing to charge GR \$595 for the appraisal cost that Respondent incurred, as a concession made due to prior business history between Respondent and [REDACTED] rather than unforeseen increases in actual settlement costs.
6. As a licensee, Respondent knew or should have known that Section 22 of the Act, MCL 445.1672, provides that it is a violation of the Act to "[f]ail to conduct the business in accordance with law." By

violating Regulation X and Regulation Z as identified above, Respondent has committed violations of the Act.

7. As a licensee, Respondent knew or should have known that Section 23(1) of the Act, MCL 445.1673(1), prohibits charging more than the actual expenses incurred by a licensee in connection with a mortgage loan application. Respondent violated Section 23(1) by charging customers an upfront flat fee for credit reports in excess of the actual expense incurred by Respondent for those credit reports.
8. DIFS issued a Notice of Opportunity to Show Compliance (NOSC) along with a copy of the Report of Examination to Respondent.
9. Respondent replied to the NOSC and an informal compliance conference was held on November 30, 2018, but Respondent failed to show compliance with the Act as identified above.
10. On April 19, 2019, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at the following address of record on file with DIFS: Connect Mortgage Funding, Inc., Mr. Terry Kashat, President, 29500 Telegraph Rd. Ste 250, Southfield, MI 48034.
11. DIFS has not received a response from the Respondent.
12. In paragraph 3 of the Order for Hearing, the Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to a resolution with the opposing party, 2) file a response to the allegations in the Administrative Complaint and file a statement that Respondent plans to attend the hearing as scheduled, or 3) file a request for an adjournment. Paragraph 5 states that failure to make the required filing shall constitute the default of Respondent in this contested case.
13. Respondent has failed to take any of the actions required by paragraph 3 of the Order. See Petitioner's Exhibit 1, Affidavit of Christy Capelin.
14. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
15. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

III. Order

Based upon the Respondent's conduct and the applicable law cited above, it is ordered that:

1. **Cease and desist** from giving a thing of value (including, but not limited to, discounting closing costs) for the referral of a settlement service involving a federally regulated mortgage loan;
2. **Cease and desist** from providing reductions in compensation or pricing concessions (including but not limited to waiving the charge for closing costs) unless the concession is

due to an unforeseen increase in an actual settlement cover over an estimated settlement cost disclosed to the consumer;

3. **Cease and desist** from charging more than the actual expenses incurred by Respondent in connection with a mortgage loan application, including, but not limited to charging customers an upfront flat fee for credit reports in excess of the actual expense incurred by Respondent for those credit reports;
4. **Refund** all costs identified in the examination report that were in excess of actual costs incurred; said refunds shall be paid by Respondent to its customers within 30 days of the Order and require Respondent to provide proof to DIFS of satisfaction within 45 days of the Order;
5. Respondent shall **pay a fine of \$3,000.00** by the date identified on a subsequent DIFS invoice. Failure to pay the fine by the date on the invoice would result in enhancing the fine to \$9,000.00 as permitted under the Act, and result in further administrative action to suspend and/or revoke Respondent's mortgage broker license

Anita G. Fox, Director
For the Director:



Randall S. Gregg, Senior Deputy Director