

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the Matter of:

PHOENIX HOUSING
AND COUNSELING NON-PROFIT, Inc.,
License No. NP-0010680

Enforcement Case No. 11-11277

Respondent.

_____ /

Issued and Entered,
This 21st day of November, 2011,
By Stephen R. Hilker,
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST,

and

NOTICE OF OPPORTUNITY FOR HEARING

The Commissioner of the Office of Financial and Insurance Regulation (OFIR), pursuant to his statutory authority and responsibility to administer and enforce the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA), MCL 445.1651 *et seq.*, hereby ORDERS Phoenix Housing and Counseling Non-Profit, Inc. (Respondent) to immediately CEASE AND DESIST from violating the MBLSLA. Respondent is also notified of an opportunity to request a hearing on this matter.

I.

ORDER TO CEASE AND DESIST

1. The authority to issue the Cease and Desist Order is found in Section 16(1) of the MBLSLA, MCL 445.1666(1), which states:

After an investigation has been conducted pursuant to section 13, and prior to holding the hearing under section 18, the commissioner may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

2. On January 16, 2002, the Commissioner granted Respondent's request, submitted pursuant to MCL 445.1675a, for an exemption from the licensing requirements of the Mortgage Brokers, Lenders, and Servicers Licensing Act, MCL 445.1651 *et seq.*

3. The exemption granted to Respondent was conditioned upon Respondent continuing to meet the exemption guidelines set forth in MCL 445.1675a and complying in all respects with the requirements of MCL 445.1675a.

4. On March 16, 2010, OFIR staff conducted an investigation of Respondent's books and records to determine whether Respondent continued to meet the qualifications necessary to retain the exemption granted to it by the Commissioner under MCL 445.1675a.

5. Based upon information derived from that investigation, OFIR staff determined that Respondent has failed to maintain the necessary qualifications to retain its exempt status.

6. Specifically, Respondent has failed to demonstrate that it meets the qualifications set forth in MCL 445.1675a(1)(b)-(i). Namely, Respondent has failed to demonstrate that:

- i. It administers a mortgage loan program funded or sponsored by 1 or more depository financial institutions, state or federal governmental entities, or charitable, religious, or other nonprofit organizations. MCL 445.1675a(1)(b).

- ii. Its mortgage loan program is targeted exclusively to persons that would not otherwise have access to affordable mortgage loans from traditional mortgage lending sources. MCL 445.1675a(1)(c).
- iii. Its housing development efforts have the support of the agency of its local governmental jurisdiction responsible for community development. MCL 445.1675a(1)(d).
- iv. Its mortgage lending activity is limited to a defined geographic area in this state, not larger than a county in the case of a metropolitan statistical area. MCL 445.1675a(1)(e).
- v. It has the capacity to accomplish its business plan. MCL 445.1675a(1)(f).
- vi. It does not directly or indirectly share with another person any portion of fees paid to the organization in connection with a mortgage loan. MCL 445.1675a(1)(g).
- vii. That it will comply with state and federal law and with the spirit and intent of section 22a. MCL 445.1675a(1)(h).
- viii. It does not service mortgage loans. MCL 445.1675a(1)(i).

7. Based upon the documents received and reviewed by OFIR staff, Respondent is in violation of Section 1675a(1)(b), Section 1675a(1)(c), Section 1675a(1)(d), Section 1675a(1)(e), Section 1675a(1)(f), Section 1675a(1)(g), Section 1675a(1)(h), Section 1675a(1)(i), of the Code, which are grounds for termination of Respondent's exempt status.

8. Section 25a of the MBLSLA, MCL 445.1675a, provides, in pertinent part:

(3) Not later than February 1 of every second year following the commissioner's determination that an organization meets the qualifications under subsection (1) or (2), the organization shall file an affidavit that it continues to meet the qualifications.

(4) An organization that has been determined to meet the qualifications of subsection (1) or (2) and subsequently fails to meet 1 or more of those qualifications shall within 90 days register or file an application for license under section 3(1) or discontinue activities that would require registration or licensure under this act.

9. Respondent has failed to file its required affidavit and has failed to register or file an application for a license in accordance with the provisions of Section 25a, above.

10. Section 29 of the MBLSLA, MCL 445.1679, provides, in pertinent part:

(1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a mortgage broker, mortgage lender, or mortgage servicer without a license or registration required under this act or acts as a loan officer in this state without a loan officer registration required under this act.

11. Section 16(3) of the MBLSLA, MCL 445.1666(3), provides, in part:

A violation of a cease and desist order issued under this act is a violation of this act and the commissioner or the attorney general may take any action permitted under this act, including making application to the Ingham county circuit court to restrain and enjoin, temporarily or permanently, or both, a person from further violating the cease and desist order.

It is therefore ORDERED that Respondent immediately CEASE AND DESIST from engaging in any business activity requiring a license or registration under the MBLSLA without first obtaining the requisite license or registration under the Mortgage Brokers, Lenders, and Servicers Licensing Act.

The Commissioner of OFIR specifically retains jurisdiction of the matter contained herein to issue such further order or orders as he may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.

II.

NOTICE OF OPPORTUNITY FOR HEARING

Section 16(2) of the MBLSLA, MCL 445.1666(2), provides:

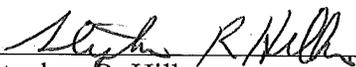
A person ordered to cease and desist shall be entitled to a hearing before the commissioner if a written request for a hearing is filed

with the commissioner not more than 30 days after the effective date of the order. A hearing shall be conducted in accordance with the provisions of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Should Respondent wish to request a hearing relating to the Commissioner's Order to Cease and Desist, a hearing must be requested in writing within 30 days of the issuance of this Order. The request for a hearing must be addressed and delivered to:

Michelle Tullar, Hearings Coordinator
Office of Financial and Insurance Regulation
Ottawa State Office Building, Third Floor
611 West Ottawa Street
Lansing, Michigan 48933

Please be advised that any statements made are voluntary and may be used in any proceeding that may be held. If a hearing is requested, Respondent has the right, at Respondent's expense, to legal representation at the hearing. A Respondent that is a corporation or limited liability company must be represented by a Michigan licensed attorney. Any contact with OFIR shall be directed to Attorney Scott Basel at (517) 241-7041.



Stephen R. Hilker,
Chief Deputy Commissioner