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ARKANSAS SECURITIES DEPT

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. C-12-0100

IN THE MATTER OF:

ORDER NO. C-12-0100-12-OR01

OPEN MORTGAGE, LLC

RESPONDENT

CONSENT ORDER

This Consent Order is entered pursuant to the Arkansas Fair Mortgage Lending Act (“FMLA”), Ark. Code Ann. §§ 23-39-501 through 23-39-518, the Rules of the Fair Mortgage Lending Act (“Rules”), and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-101 through 25-15-219, in accordance with an agreement by and between the Staff of the Arkansas Securities Department (“Staff”) and Respondent, Open Mortgage, LLC (“Open Mortgage”) in full and final settlement of all claims that could be brought against Open Mortgage by the Staff on the basis of the facts set forth herein.

Open Mortgage admits the jurisdiction of the FMLA and the Arkansas Securities Commissioner (“Commissioner”), waives its right to a formal hearing and appeal, and consents to the entry of this order and agrees to abide by its terms.

FINDINGS OF FACT

1. Open Mortgage is a corporation organized under the laws of Texas, with its principal office located at 14101 W Hwy 290 #1300, Austin, Texas 72301. Open Mortgage is currently licensed as a mortgage broker and mortgage banker with the Department since February 27, 2007, Nationwide Mortgage Licensing System Registry number 2975. Open Mortgage’s mortgage broker and mortgage banker license is scheduled to expire on December 31, 2012.

2. During 2009, Respondent, Open Mortgage, operated an unlicensed branch location at 9 South 531 Wilmette Avenue, Darien, Illinois, 60561. During this time period, a mortgage loan

officer employed by Open Mortgage originated one mortgage loan application from this branch location for Arkansas residents. This mortgage loan application was accepted by Open Mortgage.

3. Mark Suppa (“Suppa”) was employed as a loan officer by Open Mortgage during the relevant time period when the violations detailed in this order occurred. Suppa has never been licensed in any capacity under the Act. On November 16, 2009, without holding a license, Suppa originated a mortgage loan for an Arkansas resident. This mortgage loan application was accepted by Open Mortgage.

4. Pursuant to Ark. Code Ann. § 23-39-514(b)(1)-(2), the Commissioner may impose a civil penalty against Open Mortgage that shall not exceed \$10,000.00 for each violation under the Act.

LEGAL AUTHORITY AND CONCLUSIONS OF LAW

5. The acts by Open Mortgage described in ¶ 2 constitutes one violation of Ark. Code Ann. § 23-39-505(i). In addition, said acts warrant the entry of an order under Ark. Code Ann. § 23-39-514(a)(2)(B) with the appropriate civil penalty against Open Mortgage as authorized by Ark. Code Ann. § 23-39-514(b).

6. It is unlawful for any person, other than an exempt person, to act or attempt to act as a mortgage broker and mortgage banker in Arkansas without first obtaining a license under the Act. Ark. Code Ann. § 23-39-503(a). Each principal place of business and each branch office of a mortgage broker and mortgage banker licensed under the Act shall obtain a separate license. Ark. Code Ann. § 23-39-505(i). Open Mortgage acted outside the scope of “exempt person” as defined by Ark. Code Ann. § 23-39-503(a), and operated a branch office without a separate license, therefore, those actions as detailed in ¶ 2 were in violation of Ark. Code Ann § 23-39-503(a) and § 23-39-505(i).

7. The acts by Open Mortgage described in ¶ 3 constitutes one violation of Ark. Code Ann. § 23-39-503(c). In addition, said acts warrant the entry of an order under Ark. Code Ann. § 23-39-

514(a)(2)(B) with the appropriate civil penalty against Open Mortgage as authorized by Ark. Code Ann. § 23-39-514(b).

8. It is unlawful for any person, other than an exempt person, to act or attempt to act as a mortgage loan officer in Arkansas without first obtaining a license under the Act. Ark. Code Ann. § 23-39-503(c). Suppa acted outside the scope of an “exempt person” as defined by Ark. Code Ann. § 23-39-502(9), and therefore, the actions by Open Mortgage of employing an unlicensed loan officer as detailed in ¶ 3 were in violation of Ark. Code Ann. § 23-39-503(c).

9. Pursuant to Ark. Code Ann. § 23-39-514(a)(1) the entry of this order is in the public interest.

10. The Commissioner by order may impose a civil penalty that shall not exceed \$10,000.00 for each violation by a mortgage banker upon a licensee or partner, officer, director, member, manager, or other person occupying a similar status or performing a similar function on behalf of a licensee for any violation of the Act. Ark. Code Ann. § 23-39-514(b)(1) and (2).

ORDER

By agreement and with the consent of the Staff and the authorized representative of Open Mortgage, it is hereby ordered that Open Mortgage shall be responsible for the payment of a civil penalty in the amount of \$1,500.00 to the Arkansas Securities Department within thirty (30) calendar days of the entry of this Consent Order.

WITNESS MY HAND AND SEAL on this 22nd day of May, 2012.


A. HEATH ABSHURE
Arkansas Securities Commissioner

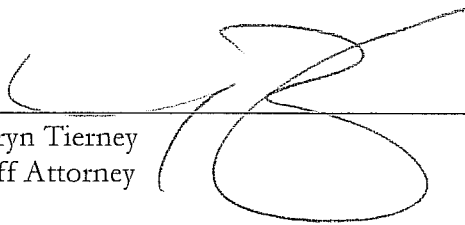
I hereby agree to the entry of this Consent Order, and consent to all terms, conditions, and orders contained therein, and waive any right to an appeal from this order.



Scott Gordon
President, Open Mortgage, LLC

5-21-12

Date



Karyn Tierney
Staff Attorney

5-22-12

Date