

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)	
)	No. 2013-MLO-01
PHILIP M. WALLER)	
IL License No. 031.0010545)	
405 Lawrence Ave.)	
Glen Ellyn, IL 60137)	

**ORDER REVOKING MORTGAGE
LOAN ORIGINATOR LICENSE AND ASSESSING FINE**

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, (“Department”), having conducted an investigation of PHILIP M. WALLER (“WALLER”), 405 Lawrence Ave., Glen Ellyn, IL 60137, found violations of the Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635] and the Mortgage Rescue Fraud Act (“MRFA”) [765 ILCS 940] issues to WALLER this ORDER REVOKING MORTGAGE LOAN ORIGINATOR LICENSE AND ASSESSING FINE.

STATUTORY PROVISIONS

1. Section 7-3(3) of the Act states that to be issued a license an applicant must have demonstrated financial responsibility, character, and general fitness so as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purpose of this Act.
2. Section 7-11 of the Act authorizes the Department to fine, or otherwise discipline, the license of a Mortgage Loan Originator if the Secretary finds that the Mortgage Loan Originator has violated this Act or any other applicable law or regulation. A maximum fine is authorized of \$1,000 for each day for each violation of this Act or other applicable law or regulation that is committed, and may be double for repeat violations.
3. Section 7-13 of the Act prohibits certain acts and practices by mortgage loan originators (“MLO”) including negligently making any false statement or knowingly and willfully making any omission of material fact in connection with any information or report filed with Nationwide Mortgage Licensing System (“NMLS”), MLOs are prohibited from violating any State law and engaging in conduct that constitutes dishonest dealings.
4. The Mortgage Rescue Fraud Act (“MRFA”) [765 ILCS 940] requires any person who, directly or indirectly, for compensation from a distressed owner, makes any solicitation, representation, or offer to perform loan modification activities to provide distressed owners statutorily defined contract terms and notice rights and refrain from taking an interest in the distressed owner’s home or securing advance payments prior to performing the contracted for service.

FACTUAL FINDINGS

1. WALLER is a mortgage loan originator holding License No. 031.0010545.
2. WALLER was first issued his loan originator registration on September 28, 2005.
3. An Investigation was prompted when the Department became aware of a case in the Chancery Division of Cook County against WALLER (Case No. 2008-CH-37378, "Civil Case") brought by a consumer. A Judgment was entered against WALLER and a co-defendant in the amount of \$63,494.69 for violations of the MRFA on October 14, 2010.
4. WALLER submitted his original MU4 application through NMLS on February 19, 2010 to become a licensed MLO. Under the section of the MU4 titled, "Disclosure Questions," part 8(C) read, "Do you have any unsatisfied judgments or liens against you?" WALLER answered "No."
5. Under the section of the MU4 titled, "Disclosure Questions," subpart 8(H) asks applicants two questions. The first question (H)(1)(b) read, "Has any domestic or foreign court ever: found that you were involved in a violation of any financial services-related statute(s) or regulation(s)?" The second question (H)(2) read, "Are you named in any pending financial service-related civil action that could result in a "yes" answer to any part of H(1)?" WALLER answered "No" to both subparts.
6. Under the section of the MU4 titled, "Disclosure Questions," subpart 8(L) read, "Have you ever been named as a respondent/defendant in a financial services-related consumer-initiated arbitration or civil litigation which: (1) is still pending; or (2) Resulted in an arbitration award or civil judgment against you, regardless of amount, or that required corrective action; or (3) was settled for any amount?" WALLER answered "No" to all three questions.
7. Civil Case was filed on October 7, 2008 and was pending on the date WALLER entered his answers on his MU4.
8. WALLER has amended his MU4 at least 9 times since he initially applied including the date the Judgment was entered. Each time he was required to give an oath that his answers "are current, true, accurate and complete and are made under the penalty of perjury."
9. WALLER also renewed three times through NMLS. All three times WALLER attested that he believed the information contained in his online record was true, accurate and complete and acknowledged that he had a duty to expediently update and correct the information as it changes.
10. At no time did WALLER change any answer related to Civil Case.

LEGAL CONCLUSION

COUNT I

11. WALLER failed to report in NMLS regarding the Civil Case in violation of 7-13(10).

COUNT II

12. WALLER failed to comply with state law as found in Civil Case in violation of Section 7-13 (8).

COUNT III

13. WALLER failed to demonstrate character, and general fitness as defined in section 7-3(3) and in violation of 7-13(15).

NOW IT IS HEREBY ORDERED THAT,

1. The Department **REVOKES** PHILIP M. WALLER'S Mortgage Loan Originator License No. 031.0010545 pursuant to Sections 7-11 of the Act.
2. The Department assesses a **FINE** against PHILIP M. WALLER in the amount of \$10,000 pursuant to Sections 7-11 of the Act. The fine is payable by certified check or money order within thirty (30) days of the effective date of this Order to the:

**Department of Financial and Professional Regulation
Division of Banking
ATTN: Loan Originator Section
320 W. Washington, 5th Floor
Springfield, Illinois, 62786.**

ORDERED THIS ____ DAY OF _____, 2013

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
MANUEL FLORES, ACTING SECRETARY

DIVISION OF BANKING

You are hereby notified that this Order is an administrative decision. Pursuant to 205 ILCS 635/412 and 38 Ill. Adm. Code, 1050.1510 *et seq.* any party may file a request for a hearing on an administrative decision. The request for a hearing and \$250 hearing fee by certified check or money order shall be filed with the Department at 320 West Washington Street, 5th Floor, Springfield, IL 62786, ATTN: Loan Originator Section within 10 days after the receipt of an administrative decision. The request for hearing must include an explicit admission, denial, or appropriate response to each allegation or issue contained in the administrative decision pursuant to 38 Ill. Adm. Code 1050.1570. 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 *et seq.*].

State of Illinois (
 (ss:
 County of Cook (

The undersigned, being duly sworn on oath, states that on ____/ ____/____, I mailed with sufficient postage affixed, a copy of the foregoing **ORDER REVOKING MORTGAGE LOAN ORIGINATOR LICENSE AND ASSESSING FINE** by regular and certified mail, return receipt requested at 100 W. Randolph St., Chicago, Illinois 60601, to the address of Respondent registered with IDFPR Division of Banking listed below:

AFFIANT

Subscribed and sworn to before me,
this ____ day of _____, 2013

NOTARY PUBLIC

Sent to:

PHILLIP WALLER
405 Lawrence Ave.
Glen Ellyn, IL 60137