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MINUTES
Mortgage Loan Originator Board
December 15, 2010

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**MORTGAGE LOAN ORIGINATOR BOARD
MEETING
December 15, 2010
COLORADO DIVISION OF REAL ESTATE
1560 BROADWAY, SUITE 1250-A
DENVER, CO 80202**

A Mortgage Loan Originator Board public and meeting was held on December 15, 2010 Those Board Members in attendance were Bart Bartholomew, Chair; Julie Piepho, Vice-Chair; Rosemary Marshall, Leslie Mitchell, and Cheryl Dingwell-Keckritz. Also attending from the Division of Real Estate were Cary Whitaker, Mortgage Loan Originator Program Manager; Penny Elder, ESP Program Manager; Doreen Archuleta, Program Support and Brenda Parrish, Program Support. Director Marcia Waters is absent. Present from the Attorney General’s Office was Lisa Brenner Friemann, Vivian Gembara and Kelly Boyle.

Notice of the meeting was timely published and the meeting was held pursuant to the Colorado Sunshine Laws, Title 24, Article 6, C.R.S., as amended.

The meeting was called to order by Chairman Bartholomew at 9:07 a.m.

RULEMAKING HEARING:

Rule 1-1-1 - *Good-Faith Temporary Registration for Mortgage Brokers-*

It was moved by Ms. Piepho and seconded by Ms. Dingwell-Keckritz to repeal Rule 1-1-1, entitled “*Good Faith Temporary Registration for Mortgage Brokers*”.



NOH 1 1 1
Temporary Registrati

Motion unanimously carried.

Rule 1-1-5 – *Preliminary Advisory Opinion-*

It was moved by Ms. Marshall and seconded by Ms. Mitchell to adopt Rule 1-1-5, entitled “*Preliminary Advisory Opinion*”.



NOH 1 1 5
Preliminary Advisory.

Motion unanimously carried.

Rule 5-1-1 – Mortgage Loan Originator Contracts-

It was moved by Ms. Piepho and seconded by Ms. Dingwell-Keckritz to adopt Rule 5-1-1, entitled “*Mortgage Loan Originator Contracts*”.



NOH 5 1 1 Mortgage
Loan Originator Contr

Ms. Dingwell-Keckritz is opposed. **Motion carried.**

Rule 8-1-1 – Mortgage Loan Originator Advertising-

It was moved by Ms. Piepho and seconded by Ms. Marshall to adopt Rule 8-1-1, entitled “*Mortgage Loan Originator Advertising*”.



NOH 8 1 1
Advertising.pdf

Motion unanimously carried.

The Rulemaking Hearing concludes at 9:18 a.m.

ORDER OF BUSINESS

Approval of Minutes

It was moved by Ms. Mitchell and seconded by Ms. Piepho to approve the Minutes of November 17, 2010 as amended.

Motion unanimously carried.

PUBLIC COMMENT:

The Board heard public testimony from Terry Jones, Chairman of the Legislative and Regulatory Affairs Committee of the Colorado Mortgage Lender’s Association and from Lisa Shimel, an attorney representing Merchants Mortgage & Trust Corporation.

Kelly Boyle was introduced to the Board by Lisa Brenner Friemann. Kelly is new to the Attorney General’s Office and will be working on mortgage loan originator cases for the Division.

POLICY MATTERS:

Senate Confirmation Hearings-

Staff is coordinating with the Governor’s Office of Boards and Commissions on Senate Confirmation Hearings for members of the MLO Board. Lisa Brenner Friemann, Attorney General’s Office, will be seeking clarification on the Board’s ability to act and

serve without confirmation. The Board members need to be confirmed by the Senate within nine days of the Legislative Session opening. There are concerns about whether the Senate will be able to conduct those hearings within that timeframe.

Rule 1-5-1 - *Mortgage Loan Originator License Inactivation and Reactivation-*

It was moved and seconded by the Board to change the term Director to Board of Mortgage Loan Originators throughout this rule and to ensure that this rule applies to both licenses and registration through the NMLS.

Motion unanimously carried.

Rule 3-1-1 - *Reasonable Inquiry and Tangible Net Benefit-*

It was moved and seconded by the Board to change the term Director to Board of Mortgage Loan Originators throughout this rule

Motion unanimously carried.

Rule 3-1-3 - *Maintaining Current Contact Information and All Information Required for Licensing-*

It was moved and seconded by the Board to change the term Director to Board of Mortgage Loan Originators throughout this rule. Additionally, the Board orders that this rule applies to all individuals required to be licensed as state licensed loan originators as this rule should apply to independent contractor processors and underwriters as well. Finally, current information will be required to be maintained on the Nationwide Mortgage Licensing System and Registry.

Motion unanimously carried.

Rule 7-1-1 - *Dual Status Disclosure-*

It was moved and seconded by the Board to change the term Director to Board of Mortgage Loan Originators throughout this rule

Motion unanimously carried.

Executive Session

It was moved and seconded by more than two-thirds vote by the Board that pursuant to §24-6-402(3)(a)(II), C.R.S., to convene the Colorado Mortgage Loan Originator Board into Executive Session for the purpose of conferring with legal counsel concerning clarification of definitions of residential mortgage loans as they apply to Rule 1-1-6, entitled *Investment Property Lending*.

Motion unanimously carried.

The Board adjourned out of Executive Session at 10:13 a.m.

Rule 1-1-6 - Investment Property Lending-

It was moved and seconded by the Board to move forward with Rule 1-1-6, entitled *Investment Property Lending* as presented.

The motion is withdrawn.

It was then moved by Ms. Dingwell-Keckritz and seconded by Ms. Marshall that the current definition contained within Rule 1-1-6 includes commercial type transactions and that the Division has the authority to investigate these types of complaints.

Ms. Piepho and Ms. Mitchell are opposed. **Motion carried.**

It was moved by Ms. Marshall and seconded by Ms. Dingwell-Keckritz to direct staff to move forward with Rule 1-1-6 subject to public hearing.

Ms. Piepho is opposed. **Motion carried.**

MLO Licensing Statistics-

Cary Whitaker provided the following statistics for the Board's information:

- 5,238 licensed MLO's, an increase of 134 licensees
- 4,904 NMLS applicants, an increase of 400 applications
- 2,734 NMLS applicants have been approved
- 2,049 incomplete NMLS applications
- 76 applications have not been reviewed
- 43 applications have been withdrawn
- 2 applications have been denied
- 422 Colorado company applications
- 250 approved Colorado company applications
- 172 incomplete Colorado company applications

Failure to Register with NMLS by Deadline-

Following discussion, it was moved by Ms. Piepho and seconded by Ms. Marshall to direct staff to delay inactivating licenses for those who have failed to register on NMLS by January 1, 2011. There will be a 30-day grace period and licenses will not be inactivated until January 31, 2011.

Ms. Dingwell-Keckritz and Mr. Bartholomew are opposed. **Motion carried.**

2011 MLO Meeting Calendar

The Board approved the following dates for the 2011 calendar. Meetings will be held on the third Wednesday of each month.

January 19, 2011

February 16, 2011

March 16, 2011

April 20, 2011

MLO Board Meeting

December 15, 2010

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May 18, 2011
June 15, 2011
July 20, 2011
August 17, 2011
September 21, 2011
October 19, 2011
November 16, 2011
December 21, 2011

Rulemaking Hearing on Rule 8-1-1-

The rulemaking hearing to consider Rule 8-1-1, entitled “*Mortgage Loan Originator Advertising*” was reopened to accommodate public comment.

Brent Ivanson, President, and Skip Weller, Marketing, with Ideal Home Loans requested that the Board consider changes to shorten disclosure requirements so that the disclosures could be accomplished in seven seconds for radio commercials.

It was moved and seconded by the Board to adopt 8-1-1 as submitted.



NOH 8 1 1
Advertising.pdf

Motion unanimously carried.

LICENSING MATTERS:

Mr. Bartholomew recuses himself from consideration of Licensing Matter A and leaves the room at 1:02 p.m.

License Application Matter A – (NMLS #273648)-

The Board considered the Licensing Application in Licensing Matter A together with accompanying documentation and information supplied by the applicant. It was moved and seconded by the Board to approve the application and grant the license.

Motion unanimously carried.

Mr. Bartholomew returns to the room at 1:08 p.m.

License Application Matter B – (NMLS #272813)-

The Board considered the Licensing Application in Licensing Matter B together with accompanying documentation and information supplied by the applicant. It was moved and seconded by the Board to approve the application and grant the license.

Motion unanimously carried.

COMPLAINTS/INVESTIGATIONS:

NOTICE: The following complaint matters contain summaries of investigative findings and proposed offers of settlement. Ultimate settlement terms, imposition of discipline or findings of license law violations may differ from those originally considered by the Board. The investigative report, exhibits and all other Board records relating to each proceeding may be public records as defined by the Colorado Open Records Act, § 24-72-203, C.R.S. and any other applicable laws.

#1 Complaint Number 2010010073-

The investigative report concerning complaint # 2010010073 was presented to the Board with accompanying documentation and information. It was moved and seconded by the Board that reasonable grounds exist to refer the respondent to hearing for violations of the mortgage loan originator license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

1. The Respondent appears to have acted as a mortgage loan originator for loan modification on 59 transactions without being licensed as a loan modifier. Seven of the 59 clients appeared to have actually received a trial or permanent loan modification. To date, 7 of 16 borrowers interviewed have not received a refund of the money they paid upfront to the respondent. The total of non-refunded monies the Division is aware of totals \$8,675.00. All monies collected appear to be co-mingled with the Respondents personal bank account as it is used for personal expenses, including dental payments. The Respondent recently applied for a loan originator license and currently has a temporary license; and
2. Alleged violations include § 12-61-903, C.R.S.; Section 12-61-905.5(1)(a), C.R.S.; Section 12-61-905.5(1)(b), C.R.S.; Section 12-61-905.5(1)(i), C.R.S.; Section 12-61-905.5(1)(q), C.R.S.; Section 12-61-911(1)(a), C.R.S.; Section 12-61-911(1)(d), C.R.S.; and Section 12-61-905.5(1)(m), C.R.S.; and
3. The respondent's temporary mortgage loan originator's license shall be publicly censured; and
4. The Division of Real Estate will inactivate the respondent's temporary mortgage loan originator's license; and
5. The respondent's mortgage loan originator's license application shall be denied; and
6. The respondent shall pay a fine to the Board up to \$52,000; and
7. He shall pay restitution in the amount of \$8,675.

Motion unanimously carried.

#2 Complaint Number 2010070739-

The investigative report concerning complaint # 2010070739 was presented to the Board with accompanying documentation and information. It was moved and seconded by the Board that reasonable grounds exist to refer the respondent to hearing for violations of the mortgage loan originator license law and to send this matter through the expedited

settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

1. The Respondent was responsible for 3,539 non-compliant radio advertisements used on various stations around the Denver metropolitan area. These ads were generally non-compliant for the following reasons: The ads omitted the requisite license number; the ads omitted the link to the Division of Real Estate website so the borrower can check the license status of their MLO; and the ads did not include material terms associated with interest rates advertised.
2. Alleged Violations include Rule 8-1-1, entitled Mortgage Loan Originator Advertising; and §12-61-911(1)(m); and
3. The respondent's mortgage loan originator's license shall be publicly censured; and
4. The respondent shall pay a fine to the Board up to \$7,000.

Motion unanimously carried.

#3 Complaint Number 2009081281-

The investigative report concerning complaint # 2009081281 was presented to the Board with accompanying documentation and information. It was moved and seconded by the Board that reasonable grounds exist to refer the respondent to hearing for violations of the mortgage loan originator license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

1. On 16 loan transactions, the Respondent claims that she used the translation services of a particular individual. Unfortunately, after interviewing five of the borrowers, they had never heard of or met the Respondent. Additionally, the translator stated he received blank 1003 forms with the Respondent's signature already on the documents. He appears to have been the only person that discussed rates and loan terms with the borrowers. On 16 transactions, the Respondent admitted to using transaction services. On all transactions reviewed, the Respondent signed the 1003 loan application as the interviewer. Additionally there were failures to use Colorado disclosures on virtually all 16 loans. On some loans, the disclosures were not properly completed, including failure to disclose an interest rate on the lock-in disclosure form. The Colorado Tangible Net Benefit disclosure was not used on any of the loan files; and
2. Alleged violations include §12-61-911(1)(a); Rule 5-1-2 entitled Mortgage Loan Originator Disclosures; and §12-61-911(1)(a); and
3. The respondent's mortgage loan originator's license shall be publicly censured; and
4. The respondent's mortgage loan originator's license shall be suspended for a period of up to three months; and
5. He shall pay a fine to the Board up to \$8,000; and
6. The respondent's mortgage loan originator's license shall be on probationary status for a period of one year following the suspension period,

Motion unanimously carried.

#4 Complaint Number 200971145-

The investigative report concerning complaint # 200971145 was presented to the Board with accompanying documentation and information. It was moved and seconded by the Board that reasonable grounds exist to refer the respondent to hearing for violations of the mortgage loan originator license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

1. The Respondent submitted 12 files to the Division of Real Estate. On seven of the 12 loans, the original interviewer on the 1003 loan application was whited out and re-signed or signed over by the Respondent. Six of these loans were provided to the Division from the lender. The documents submitted to the Division by the lender contained the actual and original mortgage originator signatures. These loan files did not contain the Respondent's signature. As a result, the Respondent misrepresented to the Division the true identity of the originator on seven loan files. The Division spoke to 9 of the 12 borrowers. None of the borrowers knew of or had ever met or spoken with the Respondent. Out of the files received from the lenders, two of the mortgage originators that signed 1003 applications were not licensed. Another two of the applications were signed by an individual that was not licensed to do FHA loans. Per originators interviewed, the Respondent was aware that these individuals worked for other mortgage companies and continued to allow them to submit FHA loans through her company. Furthermore, the Respondent admitted to signing three 1003 applications when she had never actually spoken to the borrowers. Additionally, the Respondent withheld one loan file from the Division's investigation. This file was only discovered pursuant to a Division subpoena issued to various lenders. The Division received 30 Colorado loan files from a subpoena of various lenders. Of these 30 loans, 10 of them listed unlicensed loan originators as the interviewers on the 1003 loan applications. Additionally, the Respondent failed to pay an appraiser within timelines defined by statute. The Respondent paid the appraiser 14 months after the service was performed and only paid the appraiser as a result of the Division investigation. On 12 loans submitted by the Respondent, 30 Colorado disclosures were missing or incomplete. These disclosures include the Tangible Net Benefit, the Compensation disclosure and the Lock-in disclosure form. Finally, the Respondent wasn't compliant with her surety bond and errors and omissions insurance requirements; and
2. Alleged violations include Section 12-61-905.5(1)(q), C.R.S.; Section 12-61-907, C.R.S.; Section 12-61-911(1)(a), C.R.S.; Section 12-61-911(1)(b), C.R.S.; Section 12-61-911(1)(h), C.R.S.; Section 12-61-911(1)(j), C.R.S.; Section 12-61-911(1)(k), C.R.S.; Rule 1-3-1, entitled Errors and Omissions Insurance for Mortgage Loan Originators; Rule 5-1-2, entitled Mortgage Loan Originator Disclosures; Rule 3-1-2, entitled Mortgage Loan Originator Duty to Respond and Provide Requested Documents for Investigations; and
3. The respondent's mortgage loan originator's license shall be publicly censured; and
4. The respondent's mortgage loan originator's license shall be revoked; and

5. She shall pay a fine to the Board up to \$30,000.

Motion unanimously carried.

#5 Complaint Number 2008010004-

The investigative report concerning complaint # 2008010004 was presented to the Board with accompanying documentation and information. It was moved and seconded by the Board that reasonable grounds exist to refer the respondent to hearing for violations of the mortgage loan originator license law and to send this matter through the expedited settlement process (ESP). The staff was also directed to incorporate these specific terms into the Commission approved ESP stipulation to be sent to the respondent.

1. The investigation was opened after a complaint was received alleging that a fraudulent loan file was submitted in the complaint's name. The complainant stated that the loan in question was for the mother of the Respondent. The investigation revealed that the Respondent submitted a loan on behalf of her mother that contained falsified income and employment information. This loan was submitted under the complainant's name. This is supported by interviews of the processors, the complainant and documentation collected through the investigation; and
2. Alleged violations include 2 violations of § 12-61-911(1)(a), C.R.S.; and 2 violations of § 12-61-911(1)(m), C.R.S.; and
3. The respondent's mortgage loan originator's license shall be publicly censured; and
4. The respondent's mortgage loan originator's license shall be revoked; and
5. She shall pay a fine to the Board up to \$20,000.

Motion unanimously carried.

Delegation of Authority-

It was moved by Ms. Piepho and seconded by Ms. Marshall to delegate authority to the Director to proceed with disciplinary actions against mortgage loan originators' whose discipline had already been determined when the program was a director-based model. The Board concurs with discipline imposed as determined by Director Marcia Waters.

Motion unanimously carried.

Adjourn

It was moved and seconded by the Board to adjourn. The meeting was adjourned at 1:35 p.m. on December 15, 2010

Bart Bartholomew, Chair

Julie Piepho, Vice-Chair

Rosemary Marshall, Board Member

Leslie Mitchell, Board Member

Cheryl Dingwell-Keckritz, Board Member

Marcia Waters, Director
Colorado Division of Real Estate