

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



DEPARTMENT OF BUSINESS REGULATION
DIVISION OF BANKING
1511 Pontiac Avenue, Building 68-2
Cranston, RI 02920
Telephone: (401) 462-9503 - Facsimile: (401) 462-9532

IN THE MATTER OF: _____ :
THE RHODE ISLAND MORTGAGE STORE, INC., : DBR No. 08-B-0071
RESPONDENT. _____ :

CONSENT ORDER
REGARDING ADMINISTRATIVE SURRENDER OF LICENSE

I. Introduction

1. Respondent is the holder of Loan Broker License Number 91000253LB (“License”) issued pursuant to R.I. Gen. Laws § 19-14-1 *et seq.*
2. Alan B. Bercovitz (“Bercovitz”) is the sole owner and President of Respondent.
3. On December 28, 2007 the Division of Banking (“Division”) commenced an unannounced examination of Respondent. The examination concluded on March 5, 2008. The Division issued a Report of Examination (“Report”) on March 11, 2008.
4. On March 12, 2008, the Division issued an Emergency Order Suspending Loan Broker License and Ordering Respondent To Cease And Desist Unlicensed Activity and Notice Of Opportunity For A Hearing (“Order”) The Order stated that there was sufficient cause to revoke the Respondent’s license pursuant to R.I. Gen. Laws §§ 19-14-6 and 19-14-14 which provides authority to the Department to revoke the license at issue by default in the event of evidence of failure to maintain an appropriate bond and also alleged that Respondent had

violated a number of statutes governing Respondent's Rhode Island loan brokering activities including without limitation instances of potential forgeries on loan documents and instances of cutting and pasting of signatures on loan documents by Respondent's employees.

5. The allegations in the Notice are fully incorporated herein by reference.

6. The Department received Respondent's timely Request for Hearing in response to the Department's Notice.

7. A pre-hearing conference took place at the Division at which time the parties agreed that Respondent would cancel the License pursuant to this Consent Order.

8. It is Respondent's position that its actions did not violate any statute or regulation and that its license should not be revoked.

II. Settlement Agreement

In consideration of the foregoing and the mutual promises set forth herein, and to resolve all known alleged outstanding violations, Respondent voluntarily waives its right to complete the hearing process, acknowledges, without admitting any wrongdoing or violations of any statute or regulation, the allegations in Paragraphs 1 through 8 above are true, and affirms that upon executing this Consent Order, Respondent shall:

1. Cancel its Loan Broker License effective the date of this Consent Order and the Division shall, within a reasonable time not to exceed thirty (30) days, change Respondent's status to "administrative surrender."
2. Immediately pay to the Department by check payable to the "General Treasurer, State of Rhode Island"¹, a fee for the December 28, 2007 examination in the amount of Five thousand and no/100 (\$5,000) Dollars.

¹ Payee must be the "General Treasurer, State of Rhode Island".

3. Pay a non-negotiable administrative assessment of Ten Thousand and no/100 (\$10,000.00) Dollars should Respondent and/or Alan Bercovitz, as owner in whole or in part of any entity, apply for a Lender and/or Loan Broker License, and if he meets all licensing requirements and is approved for licensure as hereinafter provided.
4. Should Alan Bercovitz apply for a Mortgage Loan Originator license in Rhode Island, he must comply with all statutory and regulatory requirements for licensure.
5. File with the Division a certified copy of a resolution of the board of directors or substantially equivalent governing body of Respondent that identifies Alan B. Bercovitz as the authorized person to execute this Consent Order.
6. In the event that Respondent and/or Alan Bercovitz is able to satisfy all statutory and regulatory requirements for obtaining a lender or loan broker license or licenses under R. I. Gen. Laws §§ 19-14-1 *et seq.* and/or 19-14.10-1 *et seq.* (the RI SAFE ACT) the Division will approve said lender or loan broker license or licenses for which an application may be filed by either Respondent or Alan B. Bercovitz subject to the following conditions:
 - a. Respondent shall not operate the licensed business from more than one location for a period of two (2) years after which it may do so only upon the express approval of the Division;
 - b. Respondent engages a compliance officer on a full time basis or it engages a qualified third party to ensure its compliance with the applicable laws and regulations governing the licensed activity; and
 - c. Respondent implements and maintains procedures that require pre-closing and post-closing compliance reviews for each loan brokered, made or funded, or originated, as the case may be, and maintains written documentation of such reviews which documentation shall be provided to the Division for review upon

request. Such documentation shall be maintained for a minimum period of three (3) years from the date that the loan was brokered, made or funded, or originated, whichever is the latest.

- d. For any correctable deficiencies, Respondent shall correct such deficiencies discovered as a result of the compliance reviews performed pursuant to (c.) above within a reasonable period of time, but no later than thirty (30) days from the date of the discovery of said deficiencies.
- e. The fact that Respondent has entered into this Consent Order shall not be used as the sole basis for denial of Respondent's or Alan Bercovitz's future applications for a mortgage loan originator's license or approval as a branch manager. The Department reserves its right to consider past regulatory action should Respondent and/or Alan Bercovitz be found to have committed any violations after the entry of this Consent Order which are related to activities conducted after the entry of the Consent Order. The Department also reserves its right to place certain conditions on any future licenses held by Respondent and/or Alan Bercovitz.
- f. Alan Bercovitz understands that if he obtains a Rhode Island license in the future, he has a duty of continuing compliance with Title 19 of the Rhode Island General Laws, as applicable, and with R.I. Gen. Laws § 19-14.10-1 *et seq.* and specifically with R.I. Gen. Laws § 19-14.10-6(2).

III. Reservation of Rights

The Department reserves its rights to further adjudicate, through the administrative hearing process, the facts² in this matter should it receive new information related to the allegations in the Notice and/or any information which may implicate other alleged violations by Respondent and/or the violation of the terms of this Consent Order by the Respondent or its principals. A violation of this Consent Order shall not result in a reopening of the allegations contained in the Report.

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R. I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS CONSENT ORDER. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED THE DEPARTMENT SHALL SEEK ADDITIONAL REMEDIES PURSUANT TO R. I. GEN. LAWS §§ 19-14-13, 19-14-15, 19-14-23, 19-14-26, or 19-14.10-13.

Respondent:

By: Alan B. Bercovitz, President Date: 10/27/11
Alan B. Bercovitz, President
The Rhode Island Mortgage Store, Inc.
C/O Lepizzera & Laprocina
117 Metro Center Blvd., Suite 2001
Warwick, RI 02886

² The Respondent and the Division agree that for the purposes of this Consent Agreement, the facts alleged against the Respondent include the transactions involving Azniv Markarian, Alice Vargas and Saovala Daoheuang.

STATE OF
COUNTY OF []

In Cranston, in said County, on the 27th day of October, 2011, before me personally appeared the above-named Alan B. Bercovitz, to me known and known by me to be the President of The Rhode Island Mortgage Store, Inc., and the person executing these presents in behalf of The Rhode Island Mortgage Store, Inc., the party executing the foregoing instrument, and he acknowledged said instrument by him so executed to be free act and deed as such person and the free act and deed of said The Rhode Island Mortgage Store, Inc.

A Brooke Ellison
A. BROOKE ELLISON, Notary
(Print or type name of Notary)

Department:

MSavage
Neena S. Savage, Esq.
Chief of Legal Services

Joe Torti III
Joseph Torti III, Deputy Director
Division of Banking

Date: 10/27/11

Date: 10/27/2011

C. Warren
Catherine R. Warren, Esq.
Hearing Officer

Date: 10/27/11

ORDER

I hereby approve _____ reject the Consent Order Regarding Administrative Surrender as agreed to by and between the parties in the above entitled matter.

ORDER NUMBER: 11077

Entered: ~~October~~ 1, 2011
November

Louis A. DeQuattro
Paul McGreevy, Director
Department of Business Regulation
on behalf of
Director Paul
McGreevy

CERTIFICATION

I hereby certify that on 1st day of November, 2011 a copy of the within Consent Order was mailed via certified and regular mail, postage prepaid, to:

Alan B. Bercovitz, President
The Rhode Island Mortgage Store, Inc.
C/O Lepizzera & Laprocina
117 Metro Center Blvd., Suite 2001
Warwick, RI 02886


