

FILED

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Division of Consumer Affairs

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, NJ 07101
Attorney for Plaintiffs

TRUE COPY
Michael m j

By: James R. Michael
Deputy Attorney General
Tel.: (973) 693-5055

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAMDEN COUNTY
DOCKET NO.: L-3114-08

ANNE MILGRAM, Attorney General of
the State of New Jersey, and DAVID
SZUCHMAN, Director of the New
Jersey Division of Consumer Affairs,

Plaintiffs,

v.

ULTIMATE REAL ESTATE SOLUTIONS,
L.L.C., HALIMAH PRATER,
EMPIRE EQUITY GROUP, INC., dba
1st METROPOLITAN MORTGAGE
SERVICES, CASSANDRA COLES,
FRANK MEMMO, TMR APPRAISAL
SERVICES, INC., NLS APPRAISAL
SERVICE, INC., MICHAEL FORDEN,
JOHN AND JANE DOES 1-10 et al.,

Defendants.

Civil Action

CONSENT JUDGMENT AS TO
DEFENDANT EMPIRE EQUITY GROUP, INC.,
dba 1st METROPOLITAN MORTGAGE

WHEREAS, the parties to this Action are Plaintiffs ANNE MILGRAM, Attorney General of
the State of New Jersey ("Attorney General") and DAVID SZUCHMAN, Director ("Director") of

the New Jersey Division of Consumer Affairs, ("Division") (collectively "Plaintiffs"), and Ultimate Real Estate Solutions, L.L.C., Halimah Prater, Empire Equity Group, Inc., dba 1st Metropolitan Mortgage Services, Cassandra Coles, Frank Memmo, TMR Appraisal Services, Inc., NLS Appraisal Service, Inc., and Michael Forden. As evidenced by their signatures below, Plaintiffs and Defendant Empire Equity Group, Inc., dba 1st Metropolitan Mortgage Services ("Settling Defendant" "Company" or "1st Metropolitan") (collectively "Parties") consent to the entry of this Consent Judgment ("Consent Judgment") and its provisions as to Defendant 1st Metropolitan without trial of any issue of fact or law, and without an admission of any liability or wrongdoing of any kind.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND AGREED AS FOLLOWS:

PART ONE: DEFINITIONS

1. Unless otherwise specified, the following definitions shall apply to this Consent Judgment:

a. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.

b. "Company" "Settling Defendant" or "1st Metropolitan" means Empire Equity Group, Inc., and its direct and indirect owners, officers, directors, shareholders, founders and managers, but not any branch managers, loan officers or other branch employees.

c. "Order" means this Consent Judgment.

d. "Effective Date" means the date this Order is executed by the parties hereto and the Court.

e. "Including" means without limitation.

f. "Family member" means a spouse, parent, child, or sibling, whether by birth, adoption or marriage.

g. The use of the singular form of any word includes the plural and vice versa.

PART TWO: COMPLIANCE WITH THE LAW

2. Settling Defendant agrees to comply fully with all Federal and State banking and mortgage lending laws, including but not limited to the New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq., the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., and the New Jersey RICO statute, N.J.S.A. 2C:41-1 et seq., as well as the regulations of the New Jersey Department of Banking and Insurance.

PART THREE: INJUNCTIVE RELIEF

3. Settling Defendant shall not engage in any unfair or deceptive acts or practices in the conduct of its business and shall comply with such State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended, including all Federal and State banking and mortgage lending laws, including the New Jersey Licensed Lenders Act, N.J.S.A. 17:11C-1 et seq., the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. and all regulations of the New Jersey Department of Banking and Insurance.

4. Settling Defendant shall only open additional offices in New Jersey after the Effective Date provided it exercises sufficient oversight over the operations of the additional offices, and subject to all applicable Federal and State laws and necessary Federal and State approvals as may be required by the New Jersey Department of Banking and Insurance and any other regulator.

5. Within ninety (90) days of the Effective date, Settling Defendant shall implement an electronic fraud detection program which is to include a method for reviewing loan applications prior to closing that can “red flag” repeat purchasers, properties, geographic hotspots for fraud and multiple owner-occupied properties for individuals seeking mortgage loans. If a loan application is flagged under this system, the Company shall conduct further inquiry into the bona fides of the loan application, and shall discontinue brokering the loan if this further inquiry determines that fraud exists in the transaction. If the Company continues brokering the loan following this further inquiry, it shall maintain detailed records memorializing: (1) the nature of the red flag; (2) the information learned as part of further inquiry; (3) the reason for continuing to broker the loan; and (4) the company officer approving the continuation of the loan. Nothing in this paragraph shall preclude the Company from ensuring that it is in compliance with all Federal and State lending laws, including fair lending laws, nor does anything in this paragraph authorize the Company to reject an application solely on the basis of being “red flagged” when the Company has not conducted further inquiry to confirm that there is reasonable basis to believe that fraud exists in the application or associated transaction.

6. The Company’s processors will perform any required income and asset verification in connection with any loan, and the Company shall not rely on loan officers or other third parties who are involved in the loan transaction to have any part in such verifications. Nothing in this provision shall limit the ability of the Company to retain the services of a third party vendor to perform any income and assets verifications in connection with processing loan applications.

7. Within ninety (90) days of the Effective Date, Settling Defendant shall implement the following fraud prevention practices:

- a. The Company will begin a system of performing surprise comprehensive audits of the conventional loan files of its New Jersey loan officers, and will perform such audits on at least 10% of the loan files originated in its New Jersey branch offices. The audits are to be conducted by an independent third party and shall be similar to those required for FHA loans;
- b. The Company will not accept loan applications from third parties, and in completing all loan applications shall not accept information to be included in an application from any source other than the borrower;
- c. The Company will not allow use of a power-of-attorney in connection with the completion of documents prepared by the Company, unless approval is obtained by a designated Company executive based on emergency or undue hardship. In each such case where a power-of-attorney is authorized, written documentation shall be maintained detailing the approval and reason for the approval;
- d. The Company will take reasonable measures to ensure that New Jersey loan officers are not permitted to work in isolation from other employees, or only with specific individuals on the processing staff of the Company. This may be accomplished through random assignment of processors to loan officers when a branch has more than one processor; and
- e. The Company will require disclosure by employees of any other businesses that in any way relate to the real estate or mortgage industries which the employee or the employee's family member are involved. Such businesses under this subsection include, but are not limited to, real estate agencies, title companies, closing agents

and real estate appraisal companies. The Company shall prohibit any employee who is performing brokerage services for a borrower from acting in any other capacity with respect to the transaction, and shall prohibit referrals to any of the businesses which the employee or the employee's family member is involved. If the Company performs brokerage services in connection with a referral from any real estate or mortgage-related business which an employee or family member is involved, the relationship with the business shall be fully disclosed to the borrower both verbally and in writing, along with an instruction that the borrower is not required to use the Company's services but may seek brokerage services from other companies. In any transaction involving a referral from any real estate or mortgage-related business which an employee or family member is involved, the Company President or his designee shall review and authorize the transaction prior to its completion.

8. The Company will conduct annual mandatory fraud prevention training for all of its employees, with an in-person component for branch managers to be completed within 90 days of the Effective Date.

9. The Company will report to the New Jersey Department of Banking and Insurance all instances of borrower misrepresentation of income, borrower misrepresentation of occupancy, appraisal fraud and fraudulent conduct on the part of any loan officer or processor, or any other person, in connection with the origination of any loan in the State.

10. The Company agrees to follow the most updated version of the Home Valuation Code of Conduct adopted by Freddie Mac and the Federal Housing Finance Agency with respect to the ordering and use of appraisals.

11. The Company shall conduct a comprehensive review of any loan file whenever it is advised in connection with a loan that the Company brokered of a first payment default or of any foreclosure proceedings being initiated within eighteen months of a loan closing, and shall take all appropriate corrective measures based on this review.

12. The Company will ensure that with respect to each home mortgage loan, in addition to the requirements under applicable provisions of Federal or State law, it shall act with reasonable skill, care and diligence; act in good faith and with fair dealing in any transaction, practice or course of business in connection with the originating of any home mortgage loan and make reasonable efforts to secure a home mortgage loan that is appropriately advantageous to the borrower, considering all the circumstances, including the product type, rates, charges and repayment terms of the loan. The Company will make reasonable efforts to review various loan options with borrowers. The Company will ensure that all loan products it provides to borrowers will not exceed applicable high cost loan standards. The Company will ensure that any loan products it provides as part of a refinance transaction will provide a reasonable net tangible benefit to the borrower, which shall be documented on a net tangible benefit form that is executed by the borrower and maintained by the Company in its records regarding the transaction.

13. The Company will take reasonable steps to ensure that its compensation structure for loan officers is not based solely on the number, size and interest rate of the loans brokered but rather will attempt to include loan quality and customer satisfaction as contributing factors in its compensation and bonus structure.

14. Within thirty (30) days of the Effective Date, Settling Defendant shall supply a copy of this Order to all of its New Jersey branch managers.

15. The Company shall continue to cooperate with the Plaintiffs in its litigation and investigation of matters related to the Complaint, as well as other investigations Plaintiffs may initiate. The Company agrees to respond to any requests by Plaintiffs for documents or information in a timely and complete manner.

PART FOUR: MONETARY RELIEF

16. The Parties have agreed to a Settlement of the Action in the amount of One Million, Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00) (the "Settlement Amount").

17. Six Hundred Thousand Dollars (\$600,000.00) of the Settlement Amount shall be paid as follows: On or before September 1, 2009, Empire Equity Group, Inc. and any and all successors and assigns, future purchasers, acquired parties, acquiring parties, successors-in-interest (the "Payor"), shall pay Forty Thousand Dollars (\$40,000.00) of the Settlement Amount. On or before the first of each month for the next fourteen months, Payor shall pay an additional Forty Thousand (\$40,000.00) of the Settlement Amount.

18. The payments referenced in paragraph 17 shall be made by wire transfer or certified or cashier's check made payable to "New Jersey Division of Consumer Affairs" and shall be forwarded to the undersigned:

Attention: Supervisor
Case Management Tracking
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, NJ 07101

19. Upon making the payments referenced in paragraph 17, Payor shall immediately be fully divested of any interest in, or ownership of, the monies paid and all interest in the monies, and

any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Plaintiffs pursuant to the terms herein.

20. For a period of fifteen months from the Effective Date, the Six Hundred Thousand Dollar (\$600,000.00) balance of the Settlement Amount shall be suspended and automatically vacated at the end of that period, provided:

- (a) Settling Defendant complies in all material respects with the terms and conditions set forth in Paragraphs 4 through 14 this Consent Judgment for all loans governed by the New Jersey Licensed Lenders Act in accordance with N.J.S.A. 17:11C-45;
- (b) Payor timely makes all payments referenced in paragraph 17;
- (c) Plaintiffs do not uncover information that Settling Defendant made any misrepresentation or material lack of disclosure concerning its knowledge of or involvement in the activities described in the Complaint; and
- (d) Plaintiffs do not uncover additional instances of conduct by Settling Defendant in connection with loans originated in the State of New Jersey that is similar to that described in the Complaint in this matter, except that this provision shall not apply to any loan that originated from Settling Defendant's branch office in Mt. Laurel, New Jersey that was managed by Frank Memmo, any loan originated by loan officer Rachel Ginsburg from Settling Defendant's Lakewood office, any loan that was originated by Joseph Kohen, or to any loan that is or was the subject of a pending or closed administrative or court action by Plaintiffs as of the Effective Date.

21. In the event Settling Defendant materially fails to comply with paragraph 20, the entire suspended amount of Six Hundred Thousand Dollars (\$600,000.00) shall be immediately due and

payable from Payor upon notice by the Plaintiffs. In any such notice, however, Plaintiffs shall provide Settling Defendant with specific details of Settling Defendant's alleged noncompliance and Settling Defendant shall be afforded a fifteen-day period within which to dispute and/or cure any such noncompliance. In the event of Settling Defendant's failure to cure any such noncompliance, Plaintiffs may move on notice or by Order to Show Cause to have the Judgment entered for the suspended amount. Settling Defendant shall have the right to submit opposition to any such motion or Order to Show Cause application filed by Plaintiffs and to contest same on any return date. In the event the suspended amount is imposed, Payor is entitled to pay the additional amount in installments of \$40,000 per month imposed consecutively with the payments set forth in Paragraph 17.

PART FIVE: JURISDICTION AND OTHER PROVISIONS

22. Pursuant the CFA and RICO, jurisdiction of this Court over the subject matter and over the Settling Defendant for purposes of entering into and enforcing this Consent Judgment is admitted. Jurisdiction is retained by this Court for such further orders and directions as may be necessary or appropriate for the construction and modification of the injunctive provisions herein, or execution of this Consent Judgment, including punishment for any violation of this Consent Judgment. If the Plaintiffs are required to file a petition to enforce any provision of this Consent Judgment against Settling Defendant, Settling Defendant agrees to pay any courts costs and reasonable attorneys' fees associated with any successful petition to enforce any provision of this Consent Judgment. Pursuant to N.J.S.A. 56:8-8, venue is proper in this Court, and venue as to all matters between the Parties relating hereto or arising out of this Consent Judgment is solely in the Superior Court of New Jersey, Camden County.

23. The Parties consent to the entry of this Consent Judgment for the purposes of settlement only without this Judgment constituting evidence against or any admission by any party and without trial of any issue of fact or law. This Consent Judgment does not constitute any admission of liability or wrongdoing, either express or implied, by Settling Defendant or any other party. Further, this Consent Judgment shall not be competent evidence in any judicial or other proceeding of any liability or wrongdoing by Settling Defendant.

24. The entry of this Consent Judgment has been consented to by Settling Defendant as its own free and voluntary act and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed upon them by this Consent Judgment, and it consents to its entry without further notice, and avers that no offer, agreement or inducements of any nature whatsoever have been made to them by the Plaintiffs or their attorneys of any employee of the Office of the Attorney General to procure this Consent Judgment.

25. In the event that the Court shall not enter this Consent Judgment, this proposed Consent Judgment shall be of no force and effect against the Attorney General of New Jersey and the Director or the Settling Defendant.

26. This Consent Judgment shall bind Settling Defendant, its officers, directors, agents, representatives, parents, affiliates, subsidiaries and employees, and shall be binding on any and all successors and assigns, future purchasers, acquired parties, acquiring parties, successors-in-interest, shareholders, and their officers, agents, representatives, and employees, directly or indirectly or through any corporation or anyone acting directly or indirectly on their behalf for purposes of ensuring that Empire Equity Group, Inc. complies with the injunctive obligations imposed on it by Parts Two and Three of this Consent Order.

27. Settling Defendant has, by its signature and the signatures of its respective counsel hereto, waived any right to appeal, petition for certiorari, move to reargue or rehear or be heard in connection with entry of this Consent Judgment concerning past conduct addressed in this Consent Judgment. This provision shall not apply to paragraphs 15 and 21.

28. In exchange for the consideration set forth herein, and conditioned upon Payor making payments referenced in paragraph 17, the Plaintiffs agree to release Settling Defendant and Settling Defendant's principals from any and all civil claims or consumer-related administrative claims, to the extent permitted by State law, which the Plaintiffs could have brought prior to the Effective Date against Settling Defendant for violations of the New Jersey Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-1 et seq., or the New Jersey Racketeering Influenced Corrupt Organizations statute ("RICO"), N.J.S.A. 2C:41- 1 et seq., and arising out of or based upon matters addressed in this Consent Judgment and the Plaintiffs' Complaint. This release does not apply to any branch managers, loan officers or other branch employees of the Company or any other party to this Action. The release language in this paragraph is not intended to apply to any private right of action brought by any individual or entity or to any other Federal or State authority, including but not limited to the New Jersey Department of Banking and Insurance.

29. This Order, when fully executed and performed by Settling Defendant to a reasonable expectation of the Attorney General, will resolve all claims against Settling Defendant that were raised in the complaint filed by the Attorney General in this action. However, nothing in this Order is intended to, nor shall, limit the Attorney General's investigatory or compliance review powers otherwise provided by law.

30. Notwithstanding any provision of this Order to the contrary, the Office of the Attorney General may, in its sole discretion, grant written extensions of time for Settling Defendant to comply with any provision of this Order.

31. The signatories to this Order warrant and represent that they have read and understand this Order, that they are duly authorized to execute this Order, and that they have the authority to take all appropriate action required to be taken pursuant to the Order to effectuate its terms.

32. This Order may be executed in multiple counterparts, each of which shall be deemed a duplicate original.

33. This Order is final and binding on the Parties, including all principals, agents, representatives, successors in interest, assigns, and legal representatives thereof. Each party has a duty to so inform any such successor in interest of the terms of this Order. No assignment by any party thereto shall operate to relieve such party of its obligations herewith.

34. All of the terms of this Order are contractual and not merely recitals, and none may be amended or modified except by a writing executed by all Parties hereto approved by the Court or with Court approval.

35. This above captioned lawsuit shall be dismissed without prejudice as to the Company. However, the Court shall retain jurisdiction over the Parties and the matter and retain the power to order all applicable equitable remedies to ensure compliance with this Order, including, but not limited to, contempt.

36. This Order supersedes and renders null and void any and all written or oral prior undertakings or agreements between the Parties regarding the subject matter hereof.

37. If any provisions, terms, or clauses in this Order are declared illegal, unenforceable, or ineffective in a legal forum, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Order shall remain valid and binding on the Parties.

39. The Parties may seek to enforce this Order by motion before the Court to the full extent of the law; however, in the event of a dispute among the Parties regarding any issue arising hereunder, the Parties shall attempt in good faith to resolve the dispute before seeking the Court's intervention.

40. Failure to comply with any provision of this Order shall be considered a violation of this Consent Order. Upon such a violation, the Attorney General may take any and all steps available to enforce this Consent Order, including seeking an order of contempt. Upon application by the Attorney General showing Payor has failed to pay the Settlement Amount and any costs pursuant to paragraphs herein, the Court shall also enter a money judgment in the amount of the unpaid balance, plus interest at the rate of nine (9) percent per annum from the date of violation or nonpayment, against Settling Defendant, and the Attorney General shall have execution thereof.

41. In any application by the Attorney General pursuant to paragraph 40 above, the Attorney General may request an allowance for costs.

42. Failure by any party to seek enforcement of this Order pursuant to its terms with respect to any instance or provision shall not be construed as a waiver to such enforcement with regard to other instances or provisions.

43. Nothing in this Order shall preclude a right of action by action by any person not a party to this Agreement.

44. All communications and notices regarding this Order shall be sent by first class mail and facsimile, if twenty-five (25) pages or less in length, to:

Office of the Attorney General

James R. Michael
Deputy Attorney General
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, NJ 07101

Attorney for Plaintiffs

Empire Equity Group

David Souders, Esq.
Weiner Brodsky Sidman Kider PC
1300 19th Street NW
Fifth Floor
Washington, DC 20036-1609

Attorneys for Empire Equity Group,
Inc.

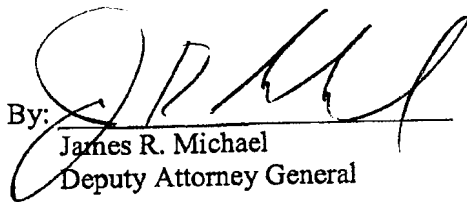
IT IS ON THIS *24th* DAY OF *August*, 2009 SO ORDERED, ADJUDGED
AND DECREED.



HON. MICHELE M. FOX, J.S.C.

Jointly Approved and Submitted for Entry:

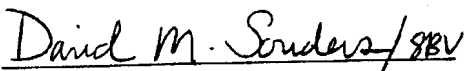
ANNE MILGRAM
ATTORNEY GENERAL OF NEW
JERSEY

By: 
James R. Michael
Deputy Attorney General

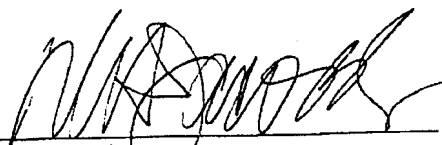
Dated: 8/17/09

124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

FOR DEFENDANT EMPIRE EQUITY GROUP, INC:

By: 
David Souders, Esq.
Weiner Brodsky Sidman Kider PC
1300 19th Street NW
Fifth Floor
Washington, DC 20036-1609

Dated: 8/7/09

By: 
Daniel Jacobs
CEO, Empire Equity Group, Inc.

Dated: 7/29/09