

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

SPRINGFIELD, ILLINOIS

IN THE MATTER OF:)
)
)

Residential Plus Mortgage)
2700 S. River Road, Suite 300)
Des Plaines, IL 60018)
_____)

No. 2010-DB-92

ORDER ASSESSING CIVIL MONETARY PENALTY

The SECRETARY OF THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION (the "Secretary"), by and through his delegated representative, hereby issues to Residential Plus Mortgage this ORDER ASSESSING CIVIL MONETARY PENALTY (the "Order"). This Order is authorized by and issued pursuant to the provisions of Section 46(d)(2) of the Illinois Banking Act [205 ILCS 5/46(d)(2)] (the "Act").

FINDINGS

The Secretary is of the opinion and finds as follows:

1. Residential Plus Mortgage, a business entity located at 2700 S. River Road, Suite 300, Des Plaines, Illinois has engaged in a marketing program designed to solicit prospective Illinois customers in a mortgage refinancing program, (the "Program");
2. As part of the Program, Residential Plus Mortgage, delivered or caused to be delivered certain solicitation materials to a customer of an Illinois state-chartered bank;
3. These solicitation materials specifically identify or use a name similar to that of the referenced Illinois state-chartered bank;

4. Section 46(d) of the Act provides that unless otherwise expressly permitted by law, no person, firm, partnership or corporation may use a name similar to that of an existing Illinois state-chartered bank when marketing to or soliciting business from customers if the similar name is used in a manner that could cause a reasonable person to believe that the marketing materials or solicitation originated from or is endorsed by the existing Illinois state-chartered bank or that the existing Illinois state-chartered bank is in any way responsible for the marketing or solicitation materials;
5. In addition, Section 46(d) provides that unless otherwise expressly permitted by law, no person, firm, partnership or corporation may use the name of an existing bank when marketing to or soliciting business from customers or perspective customers if the reference to the existing bank is made without the consent of the existing bank;
6. Residential Plus Mortgage has utilized a name similar to that of an existing Illinois state-chartered bank when marketing to or soliciting business from customers and the similar name is used in a manner that could cause a reasonable person to believe that the marketing materials or solicitation originated from or is endorsed by the previously referenced Illinois state-chartered bank or that the existing Illinois state-chartered bank is responsible for the marketing or solicitation materials. Specifically, the marketing or solicitation materials were delivered to an established customer of the Illinois State-chartered bank whose name is similar to that used in the Residential Plus Mortgage marketing or solicitation materials; and
7. The Illinois state-chartered bank whose name is similar to that used in the Residential Plus Mortgage marketing or solicitation materials did not originate, endorse or consent to these marketing or solicitation materials.
8. That on August 13, 2003 the Secretary caused to be entered an ORDER TO CEASE AND DESIST, No. 2003-BBTC-37, directing Residential Plus Mortgage to refrain from using the name of any existing Illinois state-chartered bank or any similar name of an existing Illinois state-chartered bank in connection with marketing or solicitation materials.

9. That the ORDER TO CEASE AND DESIST referred to in paragraph 8 has not been modified, set aside, stayed, amended or terminated by the Secretary.
10. That Section 46(d)(2) of the Act provides the Secretary the authority to assess a civil monetary penalty against any person for each violation of the provision.

BASED ON THE ABOVE FINDINGS, AND AUTHORITY PROVIDED UNDER SECTION 46(d)(2), THE SECRETARY CONCLUDES IT TO BE APPROPRIATE TO ENTER THE FOLLOWING ORDER:

ORDER

NOW THEREFORE IT IS HEREBY ORDERED:

1. Residential Plus Mortgage shall be and hereby is assessed a civil monetary penalty in the amount of \$1,000.00;
2. The civil money penalty in the amount of \$1,000.00 shall be paid no later than sixty (60) days after service of this Order upon Residential Plus Mortgage; and
3. The civil monetary penalty in that amount of \$1, 00.00 shall be paid by means of a certified check or money order made payable to the Illinois Department of Financial and Professional Regulation – Division of Banking, 320 West Washington Street, 6th Floor, Springfield, Illinois 62786.

ORDERED THIS 14th DAY OF SEPTEMBER, 2010.

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
BRENT E. ADAMS, SECRETARY

DIVISION OF BANKING

By:

JORGE A. SOLIS
Director

You are hereby notified that this Order is an administrative decision. Pursuant to 38 Ill. Adm. Code, Section 392, any party may file a request for a hearing on an administrative decision. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. Notice must be served upon the Secretary by causing a copy of said Notice to be delivered to the Illinois Department of Financial and Professional Regulation, Division of Banking, 320 West Washington Street, Springfield, Illinois, 62786. A hearing shall be held within 30 days after the receipt by the Secretary of a request for a hearing. Absent receipt of a request for a hearing as set forth above, this Order shall constitute a final administrative Order subject to the Administrative Review Law [735 ILCS 5/3-101, et seq.].