

IN THE MATTER OF:
ENRICO CORPORATION,

and
KENNETH J. ENRICO

Respondents

BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION

CFR-FY-2012-193

FINAL ORDER

WHEREAS, the Maryland Department of Labor, Licensing and Regulation, Office of the Commissioner of Financial Regulation (the “Commissioner” or the “Agency”) undertook an investigation into the business activities of Enrico Corporation and Kenneth J. Enrico, (together, the “Respondents”), as well as of other parties not subject to this Final Order; and

WHEREAS, as a result of that investigation, the Acting Deputy Commissioner of Financial Regulation (the “Deputy Commissioner”) found evidence to support that Respondents had engaged in acts or practices constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, namely that Respondents had violated various provisions of the Annotated Code of Maryland, including Financial Institutions Article (“FI”), Title 11, Subtitle 6 (the Maryland Mortgage Originators Law, or “MMOL”), and Real Property Article (“RP”) Title 7, Subtitle 4 (the Maryland Mortgage Fraud Protection Act, or “MMFPA”); and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist and Order to Produce (the “Summary Order”) against Respondents on May 13, 2013; and

WHEREAS, when referred to herein, “Respondents” means only Enrico Corporation and Kenneth J. Enrico. The Summary Order having been issued after determining that Respondents were in violation of the aforementioned provisions of Maryland law, and that it was in the public interest that Respondents cease and desist from originating, brokering, lending, mitigating, or engaging in any other activities involving Maryland mortgage loans or otherwise pertaining to the mortgage industry in Maryland; and

WHEREAS, the Summary Order notified Respondents of, among other things, the following: that Respondents were entitled to a hearing before the Commissioner to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order would be entered as a final order if Respondents did not request a hearing within fifteen days of the receipt of the Summary Order; and that as a result of a hearing, or of Respondents’ failure to request a hearing on the Summary Order, the Commissioner may, in the Commissioner’s discretion and in addition to taking any other action authorized by law, enter an order making the Order final, issue penalty orders against Respondents, issue order requiring Respondents to pay restitution to consumers, as well as take other actions related to Respondents’ business activities; and

WHEREAS, the Summary Order was properly served on Respondents via First Class U.S. Mail; and

WHEREAS, Respondents failed to request a hearing on the Summary Order within the fifteen day period set forth in the Summary Order, and as provided for and in compliance with FI §2-115(a)(2), and have not filed a request for a hearing as of the date of this Final Order; and

WHEREAS, the Commissioner has based his decision in this Final Order on the following determinations:

1. Relevant and credible evidence regarding Respondents obtained pursuant to the Commissioner's investigation, including: communications between Respondents and the Commissioner; communications between Respondents and Maryland consumers; Respondents' standard documents for providing mortgage loan origination services; statements by Maryland consumers who had entered into such aforementioned agreements with Respondents in which Respondents engaged in a scheme involving both theft and fraud, public records, and the Commissioner's licensing records. More particular, this evidence supports the following findings:

a. That Kenneth J. Enrico engaged in mortgage related business activities in the State of Maryland involving Maryland residential real property.

b. That Kenneth J. Enrico is the owner, director, officer, manager, employee and/or agent of Enrico Corporation. Enrico Corporation is not registered to do business in Maryland.

c. That the Respondents engaged in unlicensed mortgage origination activities in perpetration of a mortgage fraud scheme which involved the following:

i. That in December 2011, [REDACTED] ("Consumer A") entered into an agreement with the Respondents to obtain a mortgage loan to refinance real property located in Accokeek, Maryland. Consumer A at the direction of the Respondents, their employees or agents, completed a loan application for a mortgage refinance.

ii. That subsequent to the submission of the loan application, Consumer A received an "Approval Letter" dated December 29, 2011, on Enrico Corporation letterhead,

signed by Kenneth Enrico, stating that she was approved for the loan. On May 4, 2012, Consumer A received an e-mail stating there had been a meeting with Kenneth Enrico and that loan financing was “now complete”, and loan closing was scheduled for May 15, 2012.

iii. As part of the loan application and approval process, Consumer A was required to provide a \$6,500 deposit, to be applied towards closing costs. Consumer A paid the \$6,500 by cashier’s check dated January 17, 2012 and made payable to “Rebuilding America, LLC”, one of the company names used by Kenneth J. Enrico. The check was cashed.

iv. On March 13, 2012, Consumer A received a letter on Enrico Corporation’s letterhead and signed by Kenneth Enrico, stating that a “secondary investor ... is requesting a field appraisal...” and that they would “...need approximately 2 weeks to complete this process.”

v. Consumer A informed Respondents that she no longer wanted to be considered for a mortgage loan and requested a full refund of her \$6,500 deposit which Respondents have yet to provide.

vi. That Respondents’ activities discussed above constitute a theft and/or a fraud upon Maryland consumers, and Consumer A in particular, and that such theft and/or fraud was conducted through a mortgage fraud scheme.

vii. That at all times relevant to the alleged conduct described herein, the Respondents have not been duly licensed under Title 11, Subtitles 5 or 6 of the Financial Institutions Article. That by advertising and contracting with Maryland consumers to perform mortgage brokering and/or loan origination services, including processing loan applications,

Respondents acted as an unlicensed mortgage broker and/or an unlicensed mortgage loan originator;

viii. That Respondents did not show a duty of good faith and fair dealing in their communications and transaction with Consumer A.

2. By fraudulently converting clients' money for personal gain in the perpetration of a mortgage fraud scheme; and by knowingly making deliberate misstatements, misrepresentations, and/or omissions during the mortgage lending process with the intent to defraud clients, Respondents have committed mortgage fraud in violation of Title 7, Subtitle 4 of the Real Property Article, including but not limited to, RP §7-402.

3. Respondents acted as mortgage loan originators without being duly licensed. Respondents' activities included contracting with Maryland consumers to perform mortgage loan origination services, and by taking Maryland consumers' loan applications. The MMOL defines "mortgage loan originator" at FI §11-601(q) which provides in part, as follows:

(1) "Mortgage loan originator" means an individual who for compensation or gain, or in the expectation of compensation or gain:

- (i) Takes a loan application, or
- (ii) Offers or negotiates terms of a mortgage loan.

4. According to the Commissioner's records, at no time relevant to the facts set forth in the Summary Order or in this Final Order, have Respondents been licensed under FI Title 11 Subtitle 6. It is a violation of the MMOL to engage in unlicensed mortgage origination activity. FI §11-602(b); *see also* FI §11-603(a) (for a "licensee to act as a mortgage loan originator", he/she must be "acting within the scope of employment with ... (1) [a] mortgage lender; or (2) [a] person who is exempt from licensing as a mortgage lender.")

5. Respondents committed mortgage fraud. Mortgage fraud is defined under Maryland law as including “[k]nowingly making any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a ... borrower.” RP §7-401(d); *see also* §7-402 (prohibiting mortgage fraud). Mortgage fraud is a violation of the MMOL. *See* FI §11-615(a)(3) (authorizing the Commissioner to suspend or revoke a license where a licensee “in connection with any mortgage loan or loan application transaction ... (i) [c]omits any fraud; (ii) [e]ngages in any illegal or dishonest activities, or (iii) [m]isrepresents or fails to disclose any material facts to a person entitled to that information”); *see also* FI 11-615(c) (authorizing the Commissioner to enforce the MMOL, and regulations adopted thereunder by imposing sanctions, including an order to: 1) cease and desist, 2) take affirmative action to correct the violation, and 3) impose a civil penalty not to exceed \$5,000),

6. Respondents committed mortgage fraud by making misstatements and misrepresentations to Consumer A with the intent to defraud Consumer A. Respondents misstated and misrepresented that they could and would arrange a mortgage refinance for Consumer A through unnamed investors. Further, Respondents committed mortgage fraud when they falsely represented to Consumer A that she had already been approved for said loan, when in fact, Respondents had not contacted any lenders in regard to a refinance mortgage loan for Consumer A. Respondents intended that Consumer A rely on these misstatements, misrepresentations and omissions as evidenced by the fact that Respondents took up-front fees in the amount \$6,500 from Consumer A for services which Respondents had not and never did perform on Consumer A’s behalf.

7. That Respondents committed theft of property. Respondents willfully and/or knowingly obtained/exerted unauthorized control over Maryland consumers' property, and/or through deception intended to deprive those consumers of their property. Respondents converted Maryland consumers' funds to their own use by receiving and then refusing to return these funds obtained through fraudulent means. This dishonest and illegal activity in connection with mortgage transactions is a violation of the MMOL. *See* FI §11-615(a)(3) and FI §11-615(c).

NOW, THEREFORE, having determined that Respondents waived their right to a hearing in this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant to FI §11-615(c), FI §2-115(b) and RP §§ 7-401, 7-402 it is, by the Maryland Commissioner of Financial Regulation, **HEREBY**

ORDERED that the Summary Order to Cease and Desist issued by the Deputy Commissioner against Respondents on May 13, 2013 is entered as a Final Order of the Commissioner, as modified herein and Respondents shall permanently **CEASE AND DESIST** from engaging in any of the following: any and all activities which constitute loan origination, or acting as a mortgage loan originator as defined in FI §11-601(q); or in any other way acting as a mortgage lender, broker or originator in the State of Maryland or with Maryland consumers, either by acting directly, or indirectly through other individuals or business entities; and it is further

ORDERED that, pursuant to FI § 11-615(c) and FI § 2-115(b), and upon careful consideration of: 1) the seriousness of the Respondents' violations; 2) the lack of good faith of Respondents, 3) the history and ongoing nature of Respondents' violations; and 4) the deleterious effect of Respondents' violations on the public and on the mortgage industry,

Respondents shall pay to the Commissioner a total civil penalty in the amount of Two Thousand and 00/100 Dollars (\$2,000), which consists of the following:

<i>Prohibited Activity and Violation</i>	Civil Penalty per Violation	x Number of Violations	= Penalty
<i>Unlicensed Mortgage Origination Activity in Violation of FI Title 11 Subtitle 6</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Committing Mortgage Fraud & Dishonest & Illegal Conversion of Funds (FI §11-615)</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Total</i>			<i>\$2,000</i>

And it is further,

ORDERED that Respondents shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of \$2,000 within fifteen (15) days from the date of this Final Order; and it is further

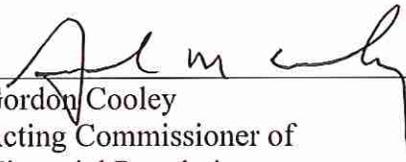
ORDERED that, pursuant to FI § 11-615 , Respondents shall pay restitution to Consumer A who was aggrieved by the violations committed by the Respondents and described herein, in the amount of \$6,500 which is the amount Consumer A paid Respondents in up-front fees; and it is further

ORDERED that Respondents shall pay the required monetary award pursuant to FI § 11-615 to Consumer A within 30 days of this Final Order being signed. Respondents shall make payment by mailing to Consumer A a check in the amount specified above via U.S. First Class Mail at the most recent address of Consumer A known to the Respondents. If the mailing of the

payment is returned as undeliverable by the U.S. Postal Service, Respondents shall promptly notify the Commissioner in writing for further instruction as to the means of the making of said payment. Upon the making of the required payment, the Respondents shall furnish evidence of having made the payment to the Commissioner within sixty (60) days of this Amended Final Order being signed, which evidence shall consist of a copy of the front and back of the cancelled check for the payment; and it is further

ORDERED that Respondents shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202, Attn: Administrator, Enforcement Unit.

Feb 3, 2015
Date


Gordon Cooley
Acting Commissioner of
Financial Regulation