

that document. This activity represents a clear issue regarding the requirement that the licensee shall operate honestly and fairly as required under Section 5-25-6(a) of the Mortgage Brokers Licensing Act.

Additionally, the examination revealed that the licensee had failed to maintain a copy of the title invoice, the recorded mortgage and the broker's compensation check in each closed loan file. The licensee also charged and collected an appraisal fee in excess of the appraisal invoice from the appraiser.

The examination also indicated that the licensee had charged and collected points in excess of 5% of the principal amount of the loan in violation of Section 5-19-4(g) of the Alabama Consumer Credit Act.

During the Administrative Hearing, Mr. Boswell was permitted to respond to each violation noted during the examination. Regarding the alleged violation of Section 5-19-4(g), Mr. Boswell presented evidence that the loan in question was in fact a reverse mortgage and that the fees related to a reverse mortgage are subject to restrictions imposed by the Federal Housing Administration ("FHA"). However, the hearing officer is of the opinion that the points limitation contained in Section 5-19-4(g) is to prohibit the results of excessive fees in relation to the amount of the loan as occurred in this case. As such, it is determined that the licensee had collected points in excess of 5% of the principal amount in violation of applicable state law.

Mr. Boswell also addressed the overcharge on the appraisal fee. Mr. Boswell stated that the overcharge was simply the result of a transcription error by his assistant. Specifically, Mr. Boswell stated that the assistant had written the appraisal fee as \$250.00; however, as a result of a misread of the handwriting, the fee was entered as

\$280.00. After a review of the documents provided during the Administrative Hearing, it was determined that this could in fact be an explanation to the appraisal fee and that any overcharge must be corrected by the licensee.

Regarding the failure to maintain the copy of the title invoice, the recorded mortgage, and the broker's compensation check in each closed loan file, Mr. Boswell indicated that the failure to maintain the appropriate records was an oversight that had been corrected and a policy to assure that it would not recur was implemented shortly after the examination. These steps appear to be appropriate.

Mr. Boswell presented evidence to attempt to explain the presence of the forged or otherwise falsified/altered signature related to the loan. Mr. Boswell provided the hearing officer with a copy of a document purportedly signed by the borrower where the borrower noted that the Mortgage Broker Fee Agreement was signed by him and that it was his true signature. Unfortunately, the borrower's notation at the bottom of a copy of the Mortgage Broker Fee Agreement did not explain why the signature was in fact a taped copy of his signature. While it may be accurate to state that it was his signature was that of the borrower, it did not sufficiently explain why the document contained a clear alteration through the use of a "cut and paste" signature. The Department must consider the documents in the books and records of a licensee and in this case, the document was clearly altered.

During the examination, it was noted that several documents indicated an address for Seniors Reverse Mortgage, Inc., located in Fort Walton Beach, Florida. Mr. Boswell admitted that he was the branch manager of the Florida location. It also appeared, that from the records related to the loan reviewed during the hearing, that certain activities


were conducted at the Florida location that would require licensure under the Mortgage Brokers Licensing Act. This office was not licensed.

Based upon the evidence presented at this hearing, the Undersigned is of the opinion that the licensee has taken certain corrective actions to correct many of the violations revealed as the result of the examination. However, the evidence also indicated that the licensee had, in its books and records, altered documents. Therefore, after careful consideration, it is ORDERED as follows:

1. That Seniors Reverse Mortgage, Inc., and Mr. Boswell were in violation of Section 5-19-4(g) and the licensee charged and collected points in excess of those permitted under state law. The points charged by the licensee regarding the loan reviewed and discussed at the hearing were not in compliance with applicable state law.
2. That Seniors Reverse Mortgage, Inc., and Mr. Boswell did not knowingly charge an appraisal fee that was in excess of the invoice for the appraisal.
3. That Seniors Reverse Mortgage, Inc. will take the appropriate corrective measures to ensure that the necessary books and records will be maintained in all closed files.
4. That Seniors Reverse Mortgage, Inc., and Mr. Jim Boswell violated Section 5-25-6(a). This violation relates to the forged or altered documents contained in the documents related to the loan reviewed and discussed at the hearing.
5. That Mr. Boswell, as the manager and individual responsible for the loan reviewed and discussed at the hearing is hereby responsible for the violation of Section 5-25-6(a)

6. That there shall be a civil penalty of \$3,000.00
7. This ORDER shall be a matter of public record.

Issued at Montgomery, Alabama, this 10th day of December, 2010.

A handwritten signature in black ink, appearing to read "Scott Corscadden", written over a horizontal line.

Scott Corscadden
Supervisor, Bureau of Loans

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