Sent 8/21/08
Cert. + Reg.

ORDER

BEFORE THE ADMINISTRATOR
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING

TO: Josh R. Kilty
[redacted]
Respondent

PURPOSE

1. This is an order issued by the Administrator, State of Wisconsin, Department of Financial Institutions, Division of Banking and directed to respondent.

JURISDICTION and AUTHORITY

2. The State of Wisconsin, Department of Financial Institutions, Division of Banking ("division") shall enforce and carry out all laws relating to mortgage bankers, mortgage brokers and loan originators in the State of Wisconsin, and shall enforce and cause to be enforced every law relating to the supervision and control thereof. Ch. 224, subch. III, Stats.

3. Respondent holds a certificate of registration as a loan originator under ch. 224, subch. III, Stats., with the division, certificate of registration #13781. Respondent is located at the address indicated above.

4. The division may issue general and special orders necessary to prevent or correct actions by a mortgage banker, loan originator or mortgage broker that constitute cause under s. 224.77, Stats., for revoking, suspending or limiting a certificate of registration. Sec. 224.77(3)(a), Stats.

5. Special orders may direct a mortgage banker, loan originator or mortgage broker to cease and desist from engaging in a particular activity or may direct the mortgage banker, loan originator or mortgage broker to refund or remit certain amounts. Sec. 224.77(3)(b), Stats.

6. The division may assess against a person who is registered under ch. 224, Stats., a forfeiture of not more than $2,000 for each violation enumerated under ss. 224.77(1)(a) to (o) or (r), Stats. Sec. 224.77(1m), Stats.

FINDINGS

The division finds as follows:

7. Between March 8, 2007 and June 30, 2008, respondent's loan originator certificate of registration was associated with Vanguard M&T, Inc. ("Vanguard"). **Ex. 1.**

8. The division approved Vanguard's use of the trade names MONEYWISE MORTGAGE – VANGUARD on December 18, 2006; VANGUARD MORTGAGE & TITLE on October 24, 2007; MONEYWISE, MONEYWI$E, MONEYWISE MORTGAGE, MONEYWI$E MORTGAGE, and MORTGAGE BANKERS IN BLUE JEANS on March 25, 2008; and BLUE JEAN MORTGAGE on April 23, 2008.

9. On June 30, 2008, respondent's loan originator certificate of registration was transferred from being associated with Vanguard to being associated with First Choice Mortgage, Inc. ("FCM"). **Ex. 1.**

10. On July 7, 2008, Vanguard's mortgage banker certificate of registration was revoked by the division.

11. As of August 15, 2008, the website www.bluejeanmortgage.com identifies respondent as a staff member of MONEYWI$E MORTGAGE, a division of Vanguard M&T, Inc. **Ex. 2.**

12. Pursuant to s. 224.77(1)(g), Stats., the division may revoke, suspend or limit the certificate of registration of a loan originator, or may reprimand a loan originator, if the division finds that the loan originator represented or attempted to represent a mortgage banker other than the mortgage banker who is registered under s. 224.72(3), Stats., as employing the loan originator.

13. By identifying and advertising himself as a representative of Vanguard while being registered as a loan originator for FCM, respondent represented or attempted to represent a mortgage banker other than the mortgage banker who is registered under s. 224.72(3), Stats., as employing respondent.

14. Pursuant to s. 224.77(1)(m), Stats., the division may revoke, suspend or limit the certificate of registration of a loan originator, or may reprimand a loan originator, if the division finds that the loan originator engaged in conduct which constitutes improper, fraudulent or dishonest dealing. Pursuant to s. DFI-Bkg 43.02(2), Admin. Code, making or causing to be made any false, deceptive or misleading statement or representation in regard to services being offered by the registrant constitutes improper, fraudulent or dishonest dealing.

15. By identifying and advertising himself as a representative of Vanguard while being registered as a loan originator for FCM, respondent made or caused to be made false, deceptive or misleading statements or representations in regard to services being offered by the respondent.

16. Pursuant to s. 224.77(1)(i), Stats., the division may revoke, suspend or limit the certificate of registration of a loan originator, or may reprimand a loan originator, if the

division finds that the loan originator demonstrated a lack of competency to act as a loan originator in a way which safeguards the interests of the public.

17. By identifying and advertising himself as a representative of Vanguard while being registered as a loan originator for FCM, respondent demonstrated a lack of competency to act as a loan originator in a way which safeguards the interests of the public.

ORDER

Based on the foregoing, IT IS HEREBY ORDERED AS FOLLOWS:

18. Respondent shall immediately cease and desist from advertising or otherwise identifying himself as a representative of Vanguard.

19. Respondent shall immediately cease and desist from using, in advertising or otherwise, the names Vanguard M&T, Inc.; MONEYWISE MORTGAGE – VANGUARD; VANGUARD MORTGAGE & TITLE; MONEYWISE; MONEYWI$E; MONEYWISE MORTGAGE; MONEYWI$E MORTGAGE; MORTGAGE BANKERS IN BLUE JEANS; and BLUE JEAN MORTGAGE.

20. The provisions of this order shall be binding upon respondent. The provisions of the order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this order shall have been modified, terminated, suspended, or set aside by the division.

21. The effective date of this Order shall be the date it is served, and service is complete upon mailing. Secs. 227.48(1), Stats., and DFI—Bkg 11.09, Admin. Code.

Dated and mailed at Madison, Wisconsin this 27th day of August, 2008.

By: [redacted]

Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
345 W. Washington Avenue, 4th Floor
Madison, WI 53707-7876
tel. (608) 266-0451
fax (608) 267-6889

APPEAL

The procedures to appeal this order are set forth in s. 227.42, Stats. Pursuant to s. 227.42(1), Stats., any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

(a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;

(b) There is no evidence of legislative intent that the interest is not to be protected;

(c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and

(d) There is a dispute of material fact.

All four criteria set for in s. 227.42(1), Stats., must be met for a person to have the right to a hearing. In particular, the attention of an individual or entity requesting a hearing is directed to the requirement to demonstrate that there is a dispute of material fact regarding the basis or bases for the action being taken by the division.

The request shall be sent to:

Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
345 W. Washington Avenue, 4th Floor
Madison, WI 53707-7876
tel. (608) 266-0451
fax (608) 267-6889

NOTICE TO NON-RESIDENT ATTORNEYS

A non-resident attorney may file a pleading or appear at a proceeding in a matter before the administrator if he or she is 1) licensed to practice law in Wisconsin or 2) not licensed to practice law in Wisconsin but employed as in-house counsel for a single employer-client. *See* SCR 10.03(4), as interpreted in *Lee R. Krahenbuhl, DDS v. Wisconsin Department of Regulation and Licensing* (Memorandum Decision, February 26, 2003, Case No. 02-CV-1148, Dane County); *see also* SCR 20:5:5. Any questions regarding this matter should be directed to the Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, tel. (608) 267-1705.