ORDER

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

TO: BPN Capital, LLC
7251 W. North Avenue, Ste. 1
Wauwatosa, WI 53213
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 mortgage broker under ch. 224, subch. III, Stats., with the division, certificate of registration #214296. Respondent's address of record is 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. On April 2, 2008, the division approved the mortgage broker application for respondent. Respondent's application disclosed that it would maintain a $10,000 surety bond and a bona fide office at 7251 W. North Avenue, Suite 1 in Wauwatosa, Wisconsin.

8. On March 26, 2009, the division sent a letter to respondent's bona fide office in Wauwatosa, Wisconsin. On or about March 31, 2009, the letter was returned to the division by the United States Postal Service and a new address was provided.

9. Pursuant to s. DFI-Bkg 41.01(4), Admin. Code, a registrant who moves from the last address provided to the division shall notify the division in writing within 10 business days of the change.

10. Pursuant to s. 224.77(1)(k), Stats., the division may revoke, suspend or limit the certificate of registration of a mortgage broker, or may reprimand a mortgage broker, if it finds that the mortgage broker violated any provision of subch. III, ch. 224, Stats., or any rule or regulation that relates to practice as a mortgage broker.

11. Respondent violated s. DFI-Bkg 41.01(4), Admin. Code, by not notifying the division that it had moved from the last address provided to the division.

12. On or about February 24, 2009, the division received a notice from West Bend Mutual Insurance Company indicating that respondent's surety bond (#0473940) would be cancelled. The effective date of the cancellation was March 26, 2009. **Ex. 1.**

13. On February 24, 2009, March 26, 2009 and April 1, 2009, the division wrote to respondent regarding the cancellation of respondent's surety bond. **Exs. 2, 3 and 4.**

14. The division has not received a rescission of the cancellation notice, a new surety bond, or evidence that respondent is otherwise in compliance with the financial responsibility requirements set forth in s. 224.72(4m), Stats.

15. Pursuant to s. 224.77(1)(i), Stats., the division may revoke, suspend or limit a mortgage broker certificate of registration, or may reprimand a mortgage broker, if the division finds that the mortgage broker demonstrated a lack of competency to act as a mortgage broker in a way which safeguards the interest of the public. Pursuant to s. DFI-Bkg 43.03(17), Admin. Code, failing to maintain the requirements set forth in s. 224.72(4m), Stats., demonstrates a lack of competency to act as a mortgage broker in a way which safeguards the interest of the public.

16. By not maintaining a surety bond, or otherwise meeting the financial responsibility requirements for a mortgage broker, respondent has demonstrated a lack of competency to act as a mortgage broker in a way which safeguards the interests of the public.

ORDER

17. Based on the foregoing, IT IS HEREBY ORDERED that respondent's certificate of registration as a mortgage broker is revoked.

18. The provisions of this order shall be binding upon respondent and respondent's directors, officers, employees, agents, successors, assigns, and other persons participating in the conduct of its affairs. 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.

19. 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 15th day of April, 2009.

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:

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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.