

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



DEPARTMENT OF BUSINESS REGULATION
DIVISION OF BANKING
1511 PONTIAC AVENUE, BUILDING 69-2
CRANSTON, RI 02920

IN THE MATTER OF:

TOWER FINANCIAL GROUP, INC.

F & F ASSOCIATES

&

THOMAS J. FUOCO

CONSENT AGREEMENT

I. Introduction

The Rhode Island Department of Business Regulation ("Department"), Tower Financial Group, Inc. ("Respondent Tower") Thomas J. Fuoco ("Respondent Fuoco") and F & F Associates ("Respondent F&F") agree as follows:

1. Respondent Fuoco is the President of Respondent F&F and the President, sole owner and principal officer of Respondent Tower. Respondent's Unique Nationwide Mortgage Licensing System Identifier is 2246.

2. Respondent Tower is a company that now holds Lender License Number 96000618LL and Loan Broker License Number 92000530LB (the "Licenses"). Respondent Tower obtained the lender license on October 1, 1996.

3. Respondent Tower previously entered into a Consent Order with the Department on May 28, 2002 to resolve violations of law discovered in an examination by the Department on or

about January 18, 2002.

4. Respondent F&F Associates and Respondent Fuoco provide tax return preparation services.

5. Respondent Fuoco, Respondent Tower and Respondent F&F are referred to collectively as “Respondents”.

6. On or about March 17, 2004, the Division of Banking (“Division”) of the Department obtained credible evidence that Respondent F&F had engaged in the business of making or funding loans without having obtained a Lender License pursuant to the provisions of R. I. Gen. Laws § 19-14-1 *et seq.*

7. R. I. Gen. Laws § 19-9-22 states in pertinent part that any officer or employee of any licensee licensed pursuant to R. I. Gen. Laws § 19-14-1 *et seq.* who makes any false statement in any book, report, or statement of the licensee with intent to deceive any officer of the licensee, the Director or Business Regulation (“Director”) or any agent appointed by the Director to examine the affairs of the licensee and any person who with like intent aids or abets any officer or employee, upon conviction, shall be fined not exceeding fifty thousand dollars (\$50,000) or be imprisoned not exceeding twenty (20) years, or both.

8. R. I. Gen. Laws § 19-14-22 states that each licensee shall annually on or before March 31st file a report with the Director or the Director’s designee giving any relevant information that the Director or the Director’s designee may reasonably require concerning the business and operations during the preceding calendar year of each licensee. The report shall be under oath and in a form prescribed by the Director or the Director’s designee.

9. R. I. Gen. Laws § 19-14-2 states in pertinent part that no person shall engage within the State of Rhode Island in the business of making or funding loans or acting as a lender without first obtaining a license or registration from the Director of Business Regulation (“Director”) or the Director’s designee.

10. R. I. Gen. Laws § 19-14-21 states in pertinent part that no licensee shall print, display, distribute or cause to be printed, displayed, or distributed in any manner whatsoever any false, misleading, or deceptive statement or representation with regard to the rates, terms or conditions with respect to the activities for which the licensee holds a license. Each licensee shall state the terms

and conditions of its licensed activities fully and clearly so as to prevent misunderstanding of rates or charges by prospective borrowers.

11. R. I. Gen. Laws § 19-14-23 states in pertinent part that if the Director or the Director's designee has reason to believe that any person required to be licensed under of R. I. Gen. Laws § 19-14-1 *et seq.* is conducting a business without having first obtained a license, the Director or the Director's designee may issue an order to that person commanding said person to cease and desist from conducting that business. The Director may impose an administrative assessment, as well as the penalties provided under of R. I. Gen. Laws § 19-14-26, against any person named in an order issued under R. I. Gen. Laws § 19-14-23.

12. 12 C.F.R. § 226.17 & 12 C.F.R. § 226.18 requires certain creditors to provide federal truth in lending disclosures for consumer loans made.

13. By letter dated March 18, 2004, the Division notified Respondent Fuoco and Respondent F&F to cease and desist from any lending activity of any kind in the State of Rhode Island and requested that Respondents provide the Division with information relating to the any lending activity conducted by Respondents.

14. Respondents provided the Division with documented evidence that Respondent F&F had made thirty-seven (37) loans without obtaining a Lender License pursuant to the provisions of R. I. Gen. Laws § 19-14-1 *et seq.*

15. The Division conducted an examination of Respondent Tower and Respondent F&F that concluded on September 14, 2007. The resulting Report of Examination dated September 14, 2007 ("Report") noted violations of applicable state and federal laws or regulations with respect to lending activity conducted by Respondent Tower and Respondent F&F.

16. It is the position of the Division that Respondent F&F violated R. I. Gen. Laws § 19-14-2 by transacting a lending business from a location in the State of Rhode Island without having obtained a Rhode Island Lender License.

17. It is the position of the Division that Respondent Tower violated applicable R. I. Gen. Laws as well as applicable federal regulations with respect to income tax refund anticipation loans made by Tower.

18. On November 8, 2007, a meeting took place at the Division to discuss the findings noted in the Report.

II. Settlement Agreement

In consideration of the foregoing and the mutual promises set forth herein, and to resolve all known outstanding violations, Respondents voluntarily waives their right to further notice of the fact that the Division views their actions as violations of applicable state and federal laws or regulations which violations could result in the suspension or revocation of the Licenses under R. I. Gen. Laws §§ 19-14-15 and 19-14-13, and additional monetary penalties of up to one thousand dollars (\$1,000) per violation. Respondents hereby waives their right to a hearing, admits that the allegations in Paragraphs 1 through 18 above are true, and affirms that upon executing this Agreement, Respondents shall:

1. Upon signing this Consent Agreement comply fully with all R. I. Gen. Laws and any applicable rules and regulations promulgated under R. I. Gen. Laws Title 19;
2. Upon signing this Consent Agreement comply fully with all applicable federal laws and regulations;
3. On or before May 15, 2009, pay to the Department by check made payable to the General Treasurer, State of Rhode Island¹, an administrative assessment in the aggregate amount of sixteen thousand two hundred nineteen (\$12,524) to be applied as follows:
 - 1) Administrative assessment of \$10,000; and
 - 2) An examination fee of \$2,524.
4. Maintain a compliance officer to monitor compliance to all applicable state and federal laws and regulations.
5. File with the Division a certified copy of a resolution of the board of directors or substantially equivalent governing body of Respondent F&F and Respondent Tower that identifies Thomas J. Fuoco as the authorized person to execute this Consent Agreement.

III. Reservation of Rights

¹ Payee must be the "General Treasurer, State of Rhode Island". Checks with incorrect payee will be returned for re issuance.

1. The Department agrees to permit Respondent to maintain the License in good standing subject to compliance by Respondent with this Consent Agreement and applicable state and federal laws and regulations.

2. The Department reserves its rights to further adjudicate, through the administrative hearing process, the facts in this matter should it receive information related to the allegations in the Notice and/or violation of the terms of this Consent Agreement and/or any information which may implicate other violations by Respondent herein subject to the Respondent's right to a hearing.

THIS CONSENT AGREEMENT CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R. I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS CONSENT ORDER. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED THE DEPARTMENT SHALL SEEK ADDITIONAL REMEDIES PURSUANT TO R. I. GEN. LAWS §§ 19-14-13, 19-14-15 and/or 19-14-26.

Respondent:



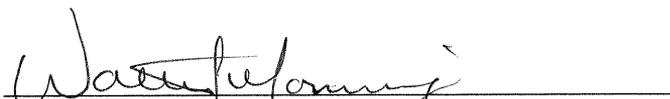
Date: 5/11/09

By: Thomas J. Fuoco, President
Tower Financial Group, Inc.
F & F Associates
370 Atwood Avenue
Cranston, RI 02920

STATE OF RI

COUNTY OF [PROVIDENCE]

In CRANSTON, in said County, on the 11TH day of MAY, 2009, before me personally appeared the above-named Thomas J. Fuoco, to me known and known by me to be the President of F & F Associates, and the person executing these presents in behalf of F & F Associates and the President of Tower Financial Group, Inc., the parties executing the foregoing instrument, and he acknowledged said instrument by him so executed to be his free act and deed as such President and the free act and deed of said F & F Associates and Tower Financial Group, Inc.,


WALTER J. MASON

_____, Notary
(Print or type name of Notary)

I hereby approve reject the Consent Agreement as agreed to by and between the parties in the above entitled matter.

Entered this 11th day of MAY 2009



Steven L. Cayouette, CFE
State Chief Bank Examiner
Department of Business Regulation
Division of Banking
1511 Pontiac Avenue, Building 69-2
Cranston, RI 02920