

**STATE OF WEST VIRGINIA**

**WEST VIRGINIA DIVISION OF FINANCIAL INSTITUTIONS**

**In the Matter of:**

**Mortgage Protection Division,  
Its Affiliates, Subsidiaries, and any A/K/As  
P.O. Box 1737  
Owasso, Oklahoma 74055-9900**

**Dkt. No. 17-CDO-MB-01**

**ORDER TO CEASE AND DESIST**

On this day the above-referenced matter was brought before me, Dawn E. Holstein, Acting Commissioner of Division of Financial Institutions of the State of West Virginia (the "WVDFI"), for action pursuant to the provisions of W.Va. Code § 31A-1-1, *et seq.*, W.Va. Code § 46A-1-101, *et seq.*, and W.Va. Code § 31-17A-1 *et seq.* Upon a review of the investigation and information obtained by the staff of the Division of Financial Institutions for the State of West Virginia and on information and belief, I hereby make the following findings of fact:

**FINDINGS OF FACT**

1. On or about November 30, 2016, the WVDFI received a written communication from the Bank of Charles Town, Charles Town, West Virginia ("BCT") disclosing certain communications from Mortgage Protection Division, its affiliate and/or subsidiary using the name of BCT who was soliciting loans by giving the appearance that it was affiliated with BCT.

2. In particular, BCT disclosed certain communications that came to its attention where Mortgage Protection Division, P.O. Box 1737, Owasso, Oklahoma 74055-9900, targeted customers of BCT by giving the impression that this communication was initiated

by BCT and/or affiliated with that bank. Specifically, the Mortgage Protection Division used a name very similar to BCT, except the word “Town” did not contain a space, i.e., Bank of Charlestown versus Bank of Charles Town.

3. In response to BCT’s complaint, the WVDFI researched whether Mortgage Protection Division and/or the Bank of Charlestown are licensed to conduct business in the State of West Virginia or whether the Bank of Charlestown is a properly licensed federal savings institution permitting it to lend to customers in this State. The WVDFI found no information to support that either entity had authority to lend to West Virginia borrowers.

4. The WVDFI researched in the public records in the states of Oklahoma, Virginia, and West Virginia whether an entity existed with the name of Bank of Charlestown, and it found no such entity.

5. The WVDFI did a general internet search and again found no information for the Bank of Charlestown, and very sparse information for the Mortgage Protection Division.

6. The WVDFI further notes that the solicitation contained the name of the alleged mortgage lender, BCT, and the borrower’s information, including name and address.

7. The WVDFI further confirmed that the BCT did not authorize the Mortgage Protection Division or any of its alleged affiliates to use its trade name.

8. The solicitation used by Mortgage Protection Division further stated “[a]s a homeowner you may qualify for the new Low Cost Mortgage Home Protection Program. This program will provide a check for your family to **Pay Off Your Mortgage** in the event you or your spouse should die before your mortgage has been paid off.”

9. On December 19, 2016, the WVDFI sent a letter to Mortgage Protection Division at the address provided in the solicitation requesting any incorporation documentation supporting “Bank of Charlestown’s” right to lend to individuals in the State of West Virginia.

10. The WVDFI requested that Mortgage Protection Division respond to the specific allegations of deceptive conduct asserted by BCT.

11. The WVDFI gave the Mortgage Protection Division until January 10, 2017 to respond. The letter further stated that failure to respond shall result in a default judgment being rendered which may include an Order requiring all activity in the State of West Virginia to cease and desist.

12. The WVDFI as a last ditch effort to obtain a response from the Mortgage Protection Division tried to contact via telephone phone the Mortgage Protection Division without success.

13. The WVDFI also notes that the Mortgage Protection Division was subject to “Cease and Desist Orders’ for similar conduct in the states of New Hampshire, Oklahoma, and Illinois.

### **CONCLUSIONS OF LAW**

14. The WV DFI has jurisdiction over state-chartered banks, credit unions and mortgage companies pursuant to W.Va. Code §§ 31-17-1, 31A-1-1, and 46A-1-1.

15. Pursuant to W.Va. Code § 31A-2-4, the Commissioner of the WVDFI was authorized to investigate all alleged violations of chapter 31A and all other laws which she is required to enforce.

16. W.Va. Code §§ 31A-1-1 et al also grants the commissioner the ability to

investigate any conduct that may be deemed unfair or deceptive relating to lending activity in the State.

17. W.Va. Code § 31A-4-2(b) states that “[i]t is unlawful for any person other than banking institutions, as herein excepted, to advertise or hold himself, herself, itself or themselves, as the case may be, out to the public in any manner indicating, directly, indirectly or by implication that any of them are engaged in the banking or trust business. . . .”

18. Mortgage Protection Division and its affiliates held itself out as being in the banking business without having a lawful right to do so.

**WHEREAS**, based on the WVDFI’s investigation, the Commissioner has concluded that good cause exists to take the actions listed below against Mortgage Protection Division, its affiliates, subsidiaries, officers, directors, or any a/k/a. Therefore, it is hereby **ORDERED** that:

- i. Mortgage Protection Division and any of its affiliates, subsidiaries, or a/k/as shall immediately **CEASE** and **DESIST** from the unauthorized and deceptive use of the full or abbreviated name, trade name, or trademark of any financial institution in any written, electronic, or oral advertisement or solicitation for products or services, including, but not limited to Bank of Charlestown;
- ii. Mortgage Protection Division shall immediately **CEASE** and **DESIST** from including loan information relative to a specifically identified consumer that is publicly available in any written or electronic solicitation;

- iii. Mortgage Protection Division shall immediately **CEASE** and **DESIST** from lending to any West Virginia borrower without first obtaining written authorization from the WVDFI;

**IT IS FURTHER ORDERED** that Mortgage Protection Division provide:

- iv. a complete list of the names and addresses of all borrowers to whom it has made a consumer or residential mortgage loan, or for whom it has brokered or originated a residential mortgage loan;
- v. a complete list of the address and phone number of every branch office or location from which it, or any person or entity acting on its behalf, made, brokered or originated any consumer or residential mortgage loan; and
- vi. provide examiners from the WVDFI immediate access to all files and records relating to any consumer loan or residential mortgage loan secured by real estate in West Virginia that it, or any individual or entity acting on its behalf, made, brokered or originated for or to any West Virginia borrowers.

**IT IS FURTHER ORDERED** that a penalty in the amount of **Five Thousand Dollars and No Cents (\$5,000.00)** is assessed on the basis of deceptive and misleading activities by Mortgage Protection Division.

This ORDER shall remain in effect until modified or vacated by further Order of the Commissioner of Financial Institutions.

**NOTICE OF RIGHT TO APPEAL**

Mortgage Protection Division is hereby notified that pursuant to W.Va. Code §31A-8-1, it may contest the issuance of this Order by filing a notice of appeal within ten

(10) days of receipt of this Order. Such notice of appeal should be filed with the Commissioner of Financial Institutions addressed to: Dawn E. Holstein, Acting Commissioner of Financial Institutions, West Virginia Division of Financial Institutions, 900 Pennsylvania Avenue, Suite 306, Charleston, West Virginia 25302-3542.

Entered: January 24, 2017

A handwritten signature in blue ink, appearing to read "Dawn E. Holstein", written over a horizontal line.

Dawn E. Holstein  
Acting Commissioner of Financial Institutions