

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**

-----X  
In the Matter of

**VANGUARD FUNDING, LLC**

**CEASE AND DESIST ORDER**

A Licensed Mortgage Banker Pursuant To  
Article XII-D of the New York Banking Law  
-----X

Maria T. Vullo, the Superintendent of the New York State Department of Financial Services (“Superintendent”), having determined that Vanguard Funding, LLC (“Vanguard Funding”), a limited liability company licensed to engage in the business of a Mortgage Banker under Article 12-D of the New York Banking Law (“Banking Law”) and located at 300 Garden City Plaza, Suite 170, Garden City, NY 11530, has engaged in, is engaging in, or is about to engage in acts or practices constituting violations of Article 12-D of the Banking Law and regulations promulgated thereunder, hereby issues the following Cease and Desist Order (“Order”) pursuant to Section 39 of the Banking Law.

**I.**

**BACKGROUND**

1. On January 23, 2017, the New York State Department of Financial Services (the “Department”) commenced an examination of Vanguard Funding. The examination identified violations of New York State and federal laws and regulations and raised concerns regarding Vanguard Funding’s financial condition. Specifically, the examination determined, among other things, that Vanguard Funding improperly: (i) classified a \$2 million loan extended to Vanguard Funding as equity in order to inflate the company’s net worth for calendar years ending December 31, 2014 and December 31, 2015; (ii) conducted business with unlicensed entities and unlicensed mortgage loan originators; (iii) failed to maintain books and records in compliance with New York laws and

regulations; and (iv) failed to establish proper oversight of third-party vendors.

2. In addition, Vanguard Funding violated Banking Law §§ 36 and 596 by failing to provide information requested by the Department concerning the company's classification of the \$2 million loan, as well as bank records, documents relating to third-party vendor agreements, emails for various senior managers, and invoices and cancelled checks for certain bank and charge accounts.

3. On June 7, 2017, the Department became aware that Vanguard Funding terminated its employees and ceased originating loans in or about March 2017. Vanguard Funding failed to apprise the Department of this action for three months.

4. On June 8, 2017, to ensure that Vanguard Funding's consumers are protected, the Department directed Vanguard Funding to provide a Loan Pipeline Report, a Closed but Unfunded Loan Report and a Report of Loans Closed within the past 90 days.

5. Although Vanguard Funding represented that there are no Closed but Unfunded Loans or any loans pending in Vanguard Funding's pipeline, the company has failed to provide any documents supporting this assertion, nor has it provided a list of Loans Closed within the past 90 days.

## **II.**

### **FINDINGS**

Based on the information above, the Superintendent finds that:

1. Vanguard Funding violated Section 599-c(1) of the Banking Law by conducting business with unlicensed mortgage loan originators.

2. Vanguard Funding has engaged in acts or practices which warrant the belief that Vanguard Funding is not operating fairly, nor demonstrating the financial responsibility or character and fitness required of licensed mortgage bankers pursuant to Section 592 of the Banking Law, which is a ground for revocation of Vanguard Funding's license pursuant to Section 595 of the Banking Law.

3. Vanguard Funding violated Section 38.7(a)(2) of Part 38 of the General Regulations of the Superintendent by conducting business with unlicensed entities.

4. Vanguard Funding violated Section 410.7(a) of Part 410 of the Department's Regulations by failing to maintain books and records in a manner that allows the Superintendent to determine whether Vanguard Funding is complying with applicable laws and regulations.

5. Pursuant to Section 595(1)(b) of the Banking Law, the Superintendent may revoke a mortgage banker's license if she finds that any fact or condition exists which, if it had existed at the time of original application for such license or registration, would have warranted the Superintendent in originally refusing to issue such license. The Superintendent has determined that, had the facts and conditions outlined herein existed at the time of the original mortgage lender license application submitted by Vanguard Funding, the Superintendent would have been warranted in refusing to issue such license(s).

6. Pursuant to Section 595(2) of the Banking Law, the Superintendent may, for good cause shown, or where there is substantial risk of public harm, suspend a mortgage banking license for a period not exceeding 30 days, pending investigation. The facts and conditions set forth in Paragraphs 1 through 5 of the Background section present sufficient grounds for the immediate suspension of Vanguard Funding's mortgage banker license pursuant to Section 595 of the Banking Law.

7. The Superintendent is authorized to take action to ensure the safe and sound operation of the institutions and entities that the Department regulates, and to make certain that such institutions and entities operate in an authorized manner and in accordance with applicable laws and regulations. Whenever it appears to the Superintendent that a licensed mortgage banker is conducting business in an unauthorized or unsafe and unsound manner, Section 39 of the Banking Law authorizes her to issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, among other things.

8. The Superintendent has concluded that prompt action is necessary to address the violations set forth above and to determine whether additional enforcement action(s) may be necessary to protect the public interest.

### **III.**

#### **ORDER TO CEASE AND DESIST**

NOW THEREFORE, the Superintendent hereby orders that:

1. Vanguard Funding, its executive officers, employees, independent contractors, or agents operating on behalf of Vanguard Funding and their successors or assigns, SHALL IMMEDIATELY CEASE, for a period not exceeding 30 days from the date of this Order, to engage in the activities of a mortgage banker, as defined under Section 590 of the Banking Law, relative to any residential property in New York, unless otherwise specifically permitted by the terms of this Order. In particular, Vanguard Funding shall cease soliciting or accepting, either directly or indirectly, any residential mortgage loan applications from consumers for residential property located in New York.

2. Pursuant to the authority granted under the provisions of Sections 595(1) and 44 of the New York Banking Law and a statement of charges to be provided, a hearing will be held at the Department before the end of the 30 day suspension period to determine whether to revoke Vanguard Funding's license to act as a mortgage banker in New York.

3. No later than two business days of the date of this Order, Vanguard Funding shall establish and maintain, at a bank insured by the Federal Deposit Insurance Corporation and located in New York, an escrow account for depositing mortgage loan payments received from borrowers serviced on an interim basis by Vanguard Funding. In the escrow agreement covering the engagement of the escrow bank, the escrow bank shall subordinate, in favor of the borrowers who are beneficiaries of this Order, any right of set-off or counterclaim or any lien or security interest in the escrow account,

or the funds in such account, that the depository might otherwise have. Vanguard Funding shall maintain accurate records with respect to all amounts placed in the escrow account and provide the Department with a daily statement reflecting the balance in such account.

4. Within seven (7) business days of the date of this Order, Vanguard Funding shall submit to the Department a complete listing of all loans that it services, including any loans serviced on an interim basis. At a minimum, for every loan serviced by Vanguard Funding, the list shall state, the:

- i. Borrower name(s);
- ii. Address and telephone number of the borrower(s);
- iii. Loan number;
- iv. Property address, if different from borrower's address above; and
- v. Amount of each loan.

5. Should the Department find that Vanguard Funding is unable or unwilling to provide an accurate listing of loans serviced, Vanguard Funding shall immediately retain the services of a third-party consultant approved by the Department to conduct a thorough review of its servicing portfolio and identify such loans.

6. Until further notice, Vanguard Funding shall not pay or declare any dividend, member distribution, bonus or severance pay or otherwise authorize any other material distribution of Vanguard Funding's assets to any officer, director, member, owner, employee or relative of any officer, director, member, owner or employee or any company owned, controlled or operated by such individuals without the prior approval of the Department.

7. Vanguard Funding shall immediately implement or revise its practices and procedures, as necessary, to ensure that its financial books and records are accurately maintained, in a manner illustrating compliance with the provisions of this paragraph, and are available for review by the

Department's examiners upon request.

8. Nothing in paragraph 5 shall prevent Vanguard Funding from paying ordinary operating expenses relating to leases and salaries of individuals employed or contracted to finalize the wind down of the Company's operations. However, Vanguard Funding shall furnish to the Department upon request details of payments made pursuant to this paragraph. Vanguard Funding is prohibited from making payments under this paragraph to any company owned directly or indirectly by, or any person related to, an officer, director, member, owner, employee or relative of such individuals.

9. All written communications to the Department regarding this Order should be sent as follows.

Attention:

Rholda L. Ricketts  
Deputy Superintendent  
Mortgage Banking Division  
New York State Department of Financial Services  
One State Street,  
New York, New York 10004

10. All written communications to Vanguard Funding regarding this Order should be sent as follows.

Attention:

Matthew Voss  
Chief Operations Officer  
Vanguard Funding, LLC  
300 Garden City Plaza, Suite 170  
Garden City, NY 11530

In Witness Whereof, I have set my hand and affixed the official seal of the Department this 9th day of June, 2016.



Maria T. Vullo  
Superintendent of Financial Services

