COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2011-AH-0110

DEPARTMENT OF FINANCIAL INSTITUTIONS COMPLAINANT

v.

JAMES GUY LACAVA RESPONDENT

FINAL ORDER SUSPENDING MORTGAGE LOAN ORGINATOR REGISTRATION

* * * * * * * * *

Comes now the Commonwealth of Kentucky, by and through the Commissioner of the Department of Financial Institutions ("DFI"), and hereby enters this **Final Order**, pursuant to KRS Chapter 286.8, suspending the mortgage loan originator registration of the Respondent, James Guy Lacava ("Respondent"):

FINDINGS OF FACT

1. The DFI is responsible for regulating and licensing mortgage loan companies, brokers, originators and processors in accordance with the provisions of KRS Chapter 286.8, the Mortgage Licensing and Regulation Act ("the Act").

2. Respondent is currently registered as a mortgage loan originator pursuant to the Act. Respondent's last known address is 16 Marlin Drive, Bayville, New Jersey 08721. Respondent's registration number is MC72020, and his Nationwide Mortgage Licensing System and Registry number is 113851.

3. On or about March 17, 2010, The Hartford Fire Insurance Company ("The Hartford") executed a Surety bond in the amount of fifteen thousand dollars ($15,000.00) on behalf of Respondent and in favor of the DFI, pursuant to Respondent's registration obligations under the Act.

4. On March 21, 2011, the DFI received a written Notice of Cancellation of Bond dated March 14, 2011, from The Hartford advising that said Surety bond had been cancelled and would expire effective April 23, 2011.

5. On March 22, 2011, the DFI sent a letter via first class mail to Respondent's last known address advising that Respondent must deliver to the DFI a notice of either reinstatement of said bond or of issuance of a new bond by April 22, 2011, and advising that failure to do so will result in the suspension or revocation of his registration. However, the DFI received no response from Respondent and received no notice evidencing either the reinstatement or issuance of any surety bond on behalf of Respondent and in favor of the DFI.

6. On June 1, 2011, the DFI sent a second letter via first class mail to Respondent's last known address. This letter advised Respondent that his failure to hold or maintain coverage under a surety bond reflected grounds for suspension and/or revocation of his registration and offered Respondent twenty (20) days within which to respond and surrender his registration, or else the DFI would commence suspension and/or revocation proceedings. This letter further advised Respondent that his prior failure to respond also constitutes grounds for suspension and/or revocation.

7. The DFI also sent an electronic copy of its June 1, 2011 letter to Respondent via electronic mail ("e-mail") on June 1, 2011 to his last known e-mail address on file with DFI, jlacava@oceansidemortgage.net.

8. However, the DFI received no response from Respondent to any of its correspondence and received no notice evidencing either the reinstatement or issuance of any surety bond on behalf of Respondent and in favor of the DFI.

9. On June 22, 2011, the DFI filed an Administrative Complaint ("Complaint") against Respondent seeking suspension or revocation of Respondent's mortgage loan originator registration and an order directing that Respondent cease and desist from transacting any business in Kentucky in the mortgage loan process.

10. The Complaint was mailed via certified mail, return receipt requested, to Respondent's last known address referenced herein.

11. On July 6, 2011, the DFI received a delivery receipt confirming that the Complaint was delivered to Respondent's last known address.

12. More than twenty (20) days have passed since the DFI received notice that the Complaint was delivered, and Respondent has failed to respond to the Complaint or request a hearing in this matter.

STATUTORY AUTHORITY

1. Pursuant to KRS 286.8-255(9)(f), "No mortgage loan originator or mortgage loan processor shall be granted or shall be entitled to maintain a certificate of registration unless he or she satisfies the following minimum standards for registration: ...If required by KRS 286.8-060, the applicant holds or is covered by a surety bond which satisfies the minimum requirements set forth in KRS 286.8-060."

2. Pursuant to KRS 286.8-060(1), "each mortgage loan company, mortgage loan broker, and mortgage loan originator shall post or be covered by a surety bond for the entire licensure or registration period in an amount prescribed by the executive director..."

3. Pursuant to 808 KAR 12:021, Section 4, "an applicant applying for registration, renewal, or reinstatement as a mortgage loan originator shall provide proof that the mortgage loan originator holds or is covered by a bond furnished by a surety

company authorized to conduct business in Kentucky. If the mortgage loan originator is procuring his or her own bond, the bond shall be submitted on the Surety Bond for Individual Mortgage Loan Originators Form and in an amount determined by annual loan origination as follows: (a) If the annual loan volume of the applicant is less than ten million dollars the surety bond shall be in an amount not less than $15,000; or (b) If the annual loan volume of the applicant is ten million dollars or more, the surety bond shall be in an amount not less than $20,000."

4. Pursuant to KRS 286.8-030(1)(c), "It is unlawful for any natural person to transact business in Kentucky, either directly or indirectly, as a mortgage loan originator...unless otherwise exempted, if the mortgage loan originator...is not registered in accordance with KRS 286.8-255 or otherwise exempted."

5. Pursuant to KRS 286.8-090(1), "The executive director may suspend; revoke; place on probation; condition; refuse to issue or renew a license, registration or exemption; or accept surrender of a license, registration, or exemption in lieu of revocation or suspension; or issue a cease and desist order if the executive director finds that the person, applicant, licensee, or registrant:

> (a) Does not meet, no longer meets, or has failed to comply with the requirements of this subtitle; ...[or]
>
> (j) Has refused to permit an examination or investigation by the executive director of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the executive director under the provisions of this subtitle.

6. Pursuant to KRS 286.8-044(2), "The executive director may file an administrative complaint against any person if it appears on grounds satisfactory to the executive director that a potential or actual violation of this subtitle has been committed

and when the person may be subject to the penalties of KRS 286.8-046, 286.8-090, and 286.8-990. The executive director shall serve the administrative complaint by certified mail or personal delivery to the last known address of the person named in the complaint. The person named in the administrative complaint shall be entitled to a hearing, but only upon timely receipt of a written answer and request for a hearing within twenty (20) days of the service or hand delivery of the administrative complaint. If timely requested, an administrative hearing shall be held in accordance with the provisions of KRS Chapter 13B. If a written answer and request for hearing are not made within twenty (20) days of service or delivery of the complaint, the executive director shall enter a final order granting the relief requested in the complaint."

7. Pursuant to KRS 286.8-044(3), service by certified mail shall be complete upon the earlier of the following:

> (a) The date on which the person receives the mail;
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> (b) The date on which the agency receives the return receipt; or
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> (c) The date on which the agency receives notice that the mail has been returned undelivered.

CONCLUSIONS

1. Respondent has failed to furnish information requested and required by the DFI within a reasonable time, and does not meet the requirements of the Act.

2. The Complaint was properly served upon Respondent via certified mail to his last known address in accordance with KRS 286.8-044(2) and 808 KAR 12:030, and service was complete by no later than July 6, pursuant to KRS 286.8-044(3).

3. Respondent failed to file a written answer and request for a hearing within twenty (20) days of service of the Complaint. Thus, Respondent's right to a hearing has been waived and the DFI is entitled to a final order granting the relief it has requested.

ORDER

Based on the findings of fact, statutory authority, and conclusions set forth above, the Commissioner **ORDERS** that the mortgage loan originator registration of James Guy Lacava is hereby **SUSPENDED**. Respondent shall immediately **CEASE AND DESIST** from transacting business in Kentucky as a mortgage loan originator. This Order shall remain in effect until rescinded by subsequent Order.

This is a **FINAL AND APPEALABLE ORDER**. This Final Order shall become effective upon completion of service as set forth in KRS 286.8-044, KRS 13B.120, and KRS 13B.050.

IT IS SO ORDERED on this the 27 day of July, 2011.

CHARLES A. VICE
COMMISSIONER

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 286.8-210, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you chose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within sixty (60) days after entry of this Final Order. A copy of any Appeal Petition must also be served on the Commissioner.

Certificate of Service

I hereby certify that a copy of the foregoing Final Order was sent by certified mail, return receipt requested, on this the 28th day of July, 2011 to:

James Guy Lacava
16 Marlin Drive
Bayville, New Jersey 08721

Respectfully submitted,

Michael T. Davis
Counsel
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