ENTERED
MAY 22 2015
1:42 pm
COMMISSIONERS OFFICE

**COMMONWEALTH OF KENTUCKY**
**PUBLIC PROTECTION CABINET**
**DEPARTMENT OF FINANCIAL INSTITUTIONS**
**AGENCY CASE NO. 2015-AH-00076**

RECEIVED
MAY 19 2015
PPC/DFI/DNDI

DEPARTMENT OF FINANCIAL INSTITUTIONS COMPLAINANT

vs. **AGREED ORDER**

ARK-LA-TEX FINANCIAL SERVICES, LLC RESPONDENT
D/B/A BENCHMARK MORTGAGE (MC19539, MC71643 and MC307393)

* * * * * * * * * * * * * *

1. The Department of Financial Institutions ("DFI") is responsible for regulating and licensing entities engaged in mortgage brokering, origination, and processing in accordance with the provisions set forth in KRS Chapter 286.8.

2. Ark-La-Tex Financial Services, LLC d/b/a Benchmark Mortgage ("Respondent") is authorized to do business in Kentucky as a mortgage company licensee pursuant to KRS Chapter 286.8, with a branch office located at 1084 East New Circle Road, Lexington, KY 40505. Respondent's license numbers are MC19539, MC71643, MC307393. (ICIE# 307315)

3. DFI received a report that Respondent was operating an unlicensed branch at 2424 Harrodsburg Road, Suite 101, Lexington, KY 40503. DFI records indicated Respondent did not have a licensed branch at this location. DFI conducted an investigation at the location on November 12, 2014, and discovered that Respondent had signage on the exterior and interior of the building. Respondent's General Counsel

gave permission for the landlord to give DFI access to the office suite. The suite contained a desk, file cabinet, computer, telephone and business cards of five employees who worked for Respondent. Respondent produced a lease that was effective on July 1, 2014. KRS 286.8-036(4) prohibits a licensee from maintaining an office at any location other than that designated in the license.

4. On November 19, 2014, Respondent submitted an application for licensure of a branch location at 2424 Harrodsburg Road, Suite 101, Lexington, KY 40503. License MC307393 for this location was approved on November 21, 2014.

5. DFI possesses a range of administrative authority in addressing violations of the Act, including license revocation or denial, suspension or the imposition of civil penalties. *See* KRS 286.8-046 and 286.8-090.

6. In this case, DFI assessed a civil penalty against Respondent in the amount of two thousand five hundred dollars ($2,500.00) for violating KRS 286.8.

7. In the interest of economically and efficiently resolving the violation(s) described herein, and without Respondent admitting or denying the statements of fact and legal conclusions herein, DFI and Respondent agree as follows:

a. Respondent agrees to a civil penalty assessment in the amount of two thousand five hundred dollars ($2,500.00) for the violation(s) described herein;

b. Respondent agrees to and shall pay the total civil penalty assessed herein of two thousand five hundred dollars ($2,500.00). The payment shall be due when Respondent signs and returns the Agreed Order. The payment shall be in the form of a certified check or money order made

payable to **"Kentucky State Treasurer"** and mailed to the Department of Financial Institutions, Attn: Non-Depository Division – ORDER, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601;

c. Respondent shall devote the time and resources necessary to ensure continual and full compliance with all statutory requirements set forth in KRS Chapter 286.8.

7. Respondent waives its right to demand a hearing at which it would be entitled to legal representation, to confront and cross examine witnesses, and to present evidence on its own behalf, or to otherwise appeal or set aside this Order.

8. Respondent consents to and acknowledges the jurisdiction of DFI over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

9. Respondent agrees to cease and desist from originating loans from branch locations until such time as the requirements of KRS Chapter 286.8 are met.

10. In consideration of execution of this Agreed Order, Respondent for itself, and for its successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, DFI, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

11. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

12. This Agreed Order shall constitute the Final Order in this matter.

**IT IS SO ORDERED** on this the 22nd day of May, 2015.

on behalf of Charles Vice

CHARLES A. VICE
COMMISSIONER

**Consented to:**

This 21st day of May, 2015.

Tammy Scruggs, Director
Division of Non-Depository Institutions
Department of Financial Institutions

This 13 day of May, 2015.

Authorized Representative
Ark-La-Tex Financial Services, LLC
d/b/a Benchmark Mortgage
License # MC19539, MC71643 and MC307393
Brian McKinney, CFO

**ACKNOWLEDGEMENT**

STATE OF Texas )
)
COUNTY OF Collin )

On this the 13 day of May, 2015, before me _____, the undersigned, Brian McKinney, did personally appear and acknowledge himself/herself to be the authorized representative for Ark-La-Tex Financial Services, LLC d/b/a Benchmark Mortgage and that he/she, entered into and executed the foregoing instrument for the purposes therein contained.

My Commission Expires: 11/26/17

Notary Public

DESIREE RAMOS
Notary Public, State of Texas
My Commission Expires
November 26, 2017

## CERTIFICATE OF SERVICE

I, Christina Hayden, hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 22 day of May, 2015, by certified mail, return receipt requested, to:

Mr. Joseph Mirabella, General Counsel
Ark-La-Tex Financial Services, LLC
d/b/a Benchmark Mortgage
5160 Tennyson Parkway, Suite 2000W
Plano, TX 75024

Via hand-delivery to:

Hon. Gary W. Adkins
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

Christina Hayden
Department of Financial Institutions