

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2009-AH- 036**

IN THE MATTER OF
ACRE MORTGAGE & FINANCIAL, INC.

ORDER TO CEASE AND DESIST

Comes now, the Commonwealth of Kentucky, by and through the Commissioner of the Department of Financial Institutions (“DFI”), and hereby enters this **Order** directing Acre Mortgage & Financial, Inc. (“Acre” or “Respondent”) to immediately **Cease and Desist** from engaging in the mortgage business in Kentucky and from advertising that it is exempt from licensing in Kentucky.

Findings of Fact

1. DFI is responsible for regulating and licensing mortgage loan companies and mortgage loan brokers doing business in Kentucky in accordance with the provisions of KRS Chapter 286.8, the Mortgage Loan Company and Mortgage Loan Broker Act.
2. On April 13, 2007, DFI entered a Final Order revoking Acre’s exemption from the licensing requirements of the Kentucky Mortgage Loan Company and Mortgage Loan Broker Act because Acre failed to comply with the exemption requirements of KRS 286.8-020(8).
3. On May 26, 2009, Pam Fitzgerald, an examiner with DFI, received an inquiry from a real estate agent concerning the “Revoked” status of Acre that was reported on

DFI's website. Ms. Fitzgerald explained to the caller that Acre previously held an exemption with DFI but the exemption was revoked and Acre was no longer authorized to originate loans on Kentucky properties.

4. Later that morning, Ms. Fitzgerald received an email message from Carl Diantonio, an employee of the Respondent, wherein he wrote " Once again, investigating into an area that you know little about. In 2007 we were mortgage BROKERS...DO YOU HEAR ME MORTGAGE BROKERS...Since that point we have become BANKERS.....BANKERS NEED NO LICENSE IN ORDER TO A MIMIMUM NUMBER OF LOANS..IT IS NOT A LICENSING ISSUE.. DO YOU UNDERSTAND...GROW UP...AGAIN, YOU HAVE MADE BECKY MORE NERVOUS...MIND YOU OWN BUSINESS... "

5. A search of Acre's website, www.acremortgage.com, under the heading "Licenses", erroneously or intentionally lists the Respondent as "License Exempt" in the Commonwealth of Kentucky.

6. The Respondent is not currently licensed or exempt from licensing in Kentucky either as a mortgage loan broker or mortgage loan company or mortgage loan banker.

7. A mortgage banker, mortgage loan company or mortgage loan broker is not authorized to originate or fund a minimum number of loans in Kentucky without a license or exemption from licensing.

Statutory Authority

6. Pursuant to KRS 286.3-030(1) it is unlawful for any person to transact business in this state, either directly or indirectly, as a mortgage loan company or

mortgage loan broker if the mortgage loan company or mortgage loan broker is not licensed in accordance with the requirements of this subtitle, unless that person is exempt under KRS 286.8-020 and, if required by KRS 286.9-020(3) has timely filed a completed application for a claim of exemption, and the filed application for a claim of exemption has been approved by the executive director.

7. Pursuant to KRS 286.8-090(4), any person who continues to participate in any business activity covered by this subtitle after such person's license, registration, or claim of exemption has been revoked, suspended, or denied shall be subject to the penalties in this section, KRS 286.8-046, and KRS 286.8-990 and shall be in violation of KRS 367.170 .

8. Pursuant KRS 367.170, unfair, false, misleading or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

Conclusions

Based upon the foregoing, the Commissioner has determined as follows:

9. It appears on grounds satisfactory to the commissioner that the Respondent continues to transact mortgage business in Kentucky by making or brokering mortgage loans on Kentucky properties in violation of KRS 286.8-036 and KRS 367.170.

10. Because the Respondent is conducting business in violation of KRS 286.8, the Commissioner has determined that it is necessary to order the Respondent to immediately cease and desist from making or brokering mortgage loans on Kentucky properties or advertising that it is exempt from licensing.

Order

Based upon the foregoing statement of facts/allegations, statutory authority and conclusions, the Commissioner **HEREBY ORDERS** Acre Mortgage & Finance, Inc. to immediately **CEASE AND DESIST** from making or brokering mortgage loans on Kentucky properties and from advertising that it is exempt from licensing.

This ORDER shall become effective upon receipt.

Appeal Rights

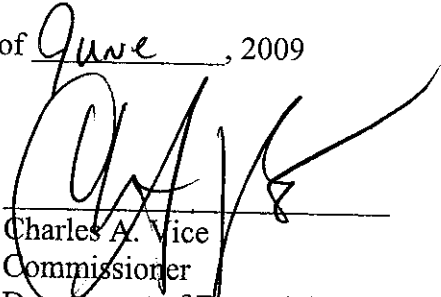
1. You are hereby notified that you have a right to request a hearing in this matter, in writing, within twenty (20) days of the entry date of this Order. If requested, an administrative hearing shall be held pursuant to the provisions of KRS Chapter 13B and 808 KAR 12:030. If a request for a hearing is not filed with DFI within twenty (20) days after the certified mailing of this Order, it shall be made final and shall remain in effect until withdrawn by the Commissioner or terminated by a court order.

2. You are hereby advised that you have a right to legal counsel at all stages of these proceedings, including but not limited to preliminary matters, and including a hearing, if one is requested.

3. You are advised that all parties to these proceedings have a right to examine, at least five (5) days prior to any hearing in this matter, a list of witnesses the parties, including DFI, expect to call at the hearing, any evidence to be used at the hearing, and any exculpatory information in the possession of DFI. The time limits established herein shall accrue from the actual date of the hearing once that date is established. However, no hearing will be set if the parties fail to timely request a hearing.


4. You are advised that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default and the proceedings may be determined against the defaulting party.

IT IS SO ORDERED on this the 9th day of June, 2009


Charles A. Vice
Commissioner
Department of Financial Institutions
1025 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

Certificate of Service

I hereby certify that a copy of the foregoing **Order to Cease and Desist** was sent by certified mail, return receipt requested, to Joseph Dicrischio, Acre Mortgage & Financial, Inc., 70 East Main Street, Marlton, NJ 08053 on this the 9th day of June, 2009.


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