

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2010-AH-042

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**FINAL ORDER**

ADAM FARNSLEY

RESPONDENT

\* \* \* \* \*

This matter is before the Commissioner of the Department of Financial Institutions (“DFI”), pursuant to KRS 286.8-044. The Commissioner hereby enters this **Final Order** directing Adam Farnsley (“Respondent”) to pay a **Fine** in the amount of \$1,000, pursuant to KRS Chapter 286.8.

**FINDINGS OF FACTS**

1. DFI is responsible for regulating and licensing mortgage loan originators in accordance with the provisions of KRS Chapter 286.8. No person shall transact business in Kentucky as a mortgage loan originator, unless that person is registered with DFI and complies with all the applicable requirements of KRS Chapter 286.8. *See* KRS 286.8-255(1); *See Also* KRS 286.8-030(1)(c).

2. Respondent was registered as a loan originator in Kentucky, pursuant to the Act. The Respondent was registered from 4/6/09 through 12/31/09.

3. During an examination, DFI discovered that the Respondent acted as a loan originator prior to the 4/6/09 registration date, in violation of KRS 286.8-030, which prohibits an

individual from acting as a loan originator who is not registered in accordance with KRS 286.8-255.

4. By letter dated February 10, 2010, DFI notified the Respondent of the alleged violation of KRS 286.8-030 and KRS 286.8-255. The letter was sent certified mail, return receipt requested to the Respondent's last known address. The letter was returned to DFI as unclaimed. The letter asked the Respondent to indicate in writing by March 3, 2010 whether he wished to settle this matter. The letter was returned to DFI as unclaimed.

5. A second letter was sent via first class mail on April 5, 2010. That letter asked the Respondent to notify DFI in writing by April 19, 2010 if he wished to settle this matter in lieu of an administrative proceeding. On May 12, 2010, the Respondent indicated by phone that he wished to settle this matter.

6. On May 18, 2010, DFI sent the Respondent a proposed Agreed Order asking it be returned to DFI by June 8, 2010. Respondent did not sign and return the Agreed Order.

7. On July 7, 2010, DFI sent a follow-up letter to Respondent asking that he sign and return the Agreed Order by July 28, 2010. Respondent failed to sign and return the Agreed Order or contact DFI.

8. On August 9, 2010 DFI filed an Administrative Complaint seeking imposition of a \$1,000 fine against Respondent. The Administrative Complaint was sent via certified mail, return receipt requested to 3315 Buffalo Trail, Floyds Knob, IN 47119. The Administrative Complaint explained that the Respondent must file an answer to the Complaint, including a request for hearing, within twenty (20) days of service. The Administrative Complaint also explained that if a request for hearing was not received within 20 days, DFI would seek a Final Order from the Commissioner granting the relief requested in the Complaint.

9. Based on the investigation, DFI asserted the following violations of KRS Chapter 286.8 by Respondent:

<u>Unregistered Activity</u>	<u>Statute Violated</u>	<u>Description</u>
Unregistered loan originator	KRS 286.8-030(1)(c) and KRS 286.8-255(1)	In March, 2009 Respondent acted as a loan originator for Homequest Mortgage Network, LLC at a time when he was not registered as a loan originator in Kentucky.

10. On August 30, 2010, the Administrative Complaint was returned to DFI as unclaimed.

11. More than twenty (20) days passed and the Respondent did not timely request an administrative hearing.

12. On October 14, 2010, Respondent contacted DFI indicating once again that he wished to settle this matter. Another Agreed Order was sent to the Respondent on October 14, 2010 asking that Respondent sign the Agreed Order and return it by October 28, 2010. Respondent did not return the Agreed Order.

13. A follow-up letter was sent to Respondent on January 11, 2011 asking that Respondent sign and return the Agreed Order by January 21, 2011. To date, Respondent, once again, has not returned the Agreed Order.

#### **STATUTORY AUTHORITY<sup>1</sup>**

14. A “mortgage loan originator” is someone who for compensation or gain or the expectation of compensation or gain:

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<sup>1</sup> The statutory references are the provisions of KRS Chapter 286.8 enacted at the time of the alleged violation.

(a) Provides services to one (1) and not more than one (1) mortgage loan company or mortgage loan broker;

(b) Is subject to the supervision and control of that mortgage loan company or mortgage loan broker; and

(c) In exchange for compensation by that mortgage loan company or mortgage loan broker, performs any one (1) or more of the following acts in the mortgage lending process:

1. Solicits, places, negotiates, originates, or offers to make a mortgage loan for a mortgage loan company or mortgage loan broker;

2. Obtains personal and financial information from a borrower or prospective borrower;

3. Assists a borrower or prospective borrower with the preparation of a mortgage loan or related documents;

4. Explains, recommends, discusses, or quotes rates, terms, and conditions of a mortgage loan with a borrower or prospective borrower, whether or not the borrower or prospective borrower makes or completes an application; or

5. Explains any term or aspect of any disclosure or agreement given at or after the time a mortgage loan application is received.

*See* KRS 286.8-010(9).

15. Pursuant to KRS 286.8-255(1), “No mortgage loan originator or mortgage loan processor shall originate or process mortgage loans on residential real property in Kentucky unless such mortgage loan originator or mortgage loan processor is registered with the office and has been issued a certificate of registration by the office. The office shall maintain a database of all mortgage loan originators and mortgage loan processors originating or processing mortgage loans on residential real property in Kentucky. The office shall issue a certificate of registration to all registered mortgage loan originators and mortgage loan processors.”

16. KRS 286.8-030(1)(c) makes it unlawful for a mortgage loan originator to conduct business in Kentucky if the mortgage loan originator is not registered pursuant to KRS 286.8-255.

17. Pursuant to KRS 286.8-090(1)(a) and (v), the Commissioner may suspend, revoke, place on probation, or issue a cease and desist order if the commissioner finds that a person has failed to comply with the requirements of KRS Chapter 286.8 or the person has violated a provision of KRS Chapter 286.8.

18. KRS 286.8-046 gives the commissioner the ability to levy a civil penalty against any person who violates provisions of KRS Chapter 286.8. The civil penalty shall not be less than one thousand dollars (\$1,000) nor more than twenty five thousand dollars (\$25,000) per violation.

#### **CONCLUSIONS OF LAW**

19. The Respondent has violated KRS 286.8-030(1)(c) and KRS 286.8-255(1) by acting as an unregistered loan originator. Respondent is subject to a fine of one thousand dollars (\$1,000).

20. The Respondent was properly served the Complaint pursuant to KRS 286.8-044(2) by serving the Respondent via certified mail at the last known address of the Respondent. Service by certified mail is complete pursuant to KRS 286.8-044(3).

21. The Administrative Complaint sent to the Respondent's last known address was returned to DFI on August 30, 2010 as unclaimed. Therefore, pursuant to KRS 286.8-044(3) service was complete.

22. Respondent failed to timely respond to the Administrative Complaint or request a hearing within twenty (20) days of service. Thus, the Respondent has not perfected his appeal and his right to a hearing is waived in this matter.

**ORDER**

THEREFORE, based upon the foregoing findings of facts, statutory authority, and conclusions of law, the Commissioner **HEREBY ORDERS** that:

Adams Farnsley shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00) for violation of KRS 286.8-030(1)(c) and KRS 286.8-255(1). The check 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: Shaun T. Orme, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

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.

**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.

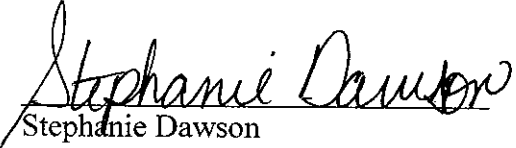
**IT IS SO ORDERED** on this the 25<sup>th</sup> day of January, 2011.

  
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CHARLES A. VICE  
COMMISSIONER

## Certificate of Service

I hereby certify that a copy of the foregoing **Final Order** was sent by certified mail to, return receipt requested, on this the 26<sup>th</sup> day of January, 2011 to:

Adam Farnsley  
3315 Buffalo Trail  
Floyds Knob, IN 47119

  
Stephanie Dawson  
Department of Financial Institutions  
1025 Capital Center Drive, Ste. 200  
Frankfort, KY 40601  
(502) 573-3390, ext. 282  
(502) 573-2183 (fax)