

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2009-AH- 64

IN THE MATTER OF:
ALLIED HOME MORTGAGE CAPITAL CORPORATION

AGREED ORDER

BACKGROUND AND FACTUAL FINDINGS

1. The Department of Financial Institutions (the "Department") is responsible for regulating and licensing mortgage loan companies, mortgage loan brokers, mortgage loan originators, and mortgage loan processors in accordance with the provisions of KRS Chapter 286.8, the Mortgage Loan Company and Mortgage Loan Broker Act (the "Act").

2. Allied Home Mortgage Capital Corporation ("Allied") is approved and regulated by the U.S. Department of Housing and Urban Development to originate mortgage loans in Kentucky and is subject to all provisions of the Act but the licensing and examination requirements of the Act unless the Department has satisfactory grounds to believe that an examination is necessary.

3. The Department investigated a complaint, dated April 10, 2009, by Kimberley Younger against Allied's Louisville, Kentucky branch office. According to the complaint, Ms. Younger went to the branch office to apply for a loan for the purchase of a new residence. Ms. Younger already owned a house in Louisville and was advised by Allied's loan officer that she could keep her current home and rent it out and still qualify for a loan for the new purchase. Because the mortgage loan on her residence was with Kentucky Housing Corporation, a state housing finance agency that provides affordable

housing opportunities to Kentucky citizens, Ms. Younger was unable to rent her home under the terms of her current loan. As a result, the branch office refinanced her current residence with the stated benefit that she would be able to legally rent the property. Ms. Younger was told that a USDA loan would best fit her on the new purchase. After her residence was refinanced, the mortgage company was unable to finance the new purchase because of rules related to multiple loans through USDA and FHA. In addition, down payment requirements and underwriting rules for conventional loans, prevented Allied from financing the purchase of a new residence for Ms. Younger. As a result, Ms. Younger was left with a higher interest mortgage loan on her current residence and a monthly mortgage insurance premium which she didn't have on her previous loan.

4. Allied was provided with a copy of Ms. Younger's complaint and asked to submit a response. Allied responded by stating that all fees were properly disclosed to Ms. Younger and there was no increase between the initial GFE and the final HUD-1. Allied further stated that a revised GFE actually disclosed a lower cash return and lower closing costs.

5. Based on the complaint filed by Ms. Younger and the response to the complaint by Allied, the Department alleged that Allied failed to act in the best interest of the borrower and failed to disclose all material facts which would affect the borrower's ability to receive benefit from the loan in violation of Kentucky law.

STATUTORY AUTHORITY

6. Pursuant to KRS 286.8-270(1), a mortgage loan broker shall comply with the following duties: (a) A mortgage loan broker shall exercise good faith and fair dealing, shall act in the best interest of the borrower, and shall not compromise a borrower's right

or interest in favor of another's right or interest; (b) A mortgage loan broker shall disclose to borrowers all material facts of which the mortgage loan broker has knowledge that might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan;

7. Pursuant to KRS 286.8-046, the Department of Financial Institutions ("DFI") may assess a civil penalty of one thousand dollars (\$1,000) to twenty five thousand dollars (\$25,000) for any violation of any provision of KRS Chapter 286.8, order restitution or refunds, and recover the state's costs and expenses for the examination, investigation, and prosecution of a matter.

AGREEMENT AND ORDER

The Department and Allied, in the interest of economically and efficiently resolving the violations described in the foregoing Background and Factual Findings, agree as follows:

1. Allied agrees to refund to Kimberley Younger all mortgage broker fees earned on the transaction in the amount of three thousand two hundred forty dollars and seventy three cents (\$3,240.73), which consists of the processing fee of nine hundred and ninety five dollars (\$995) and the Yield Spread Premium of two thousand two hundred forty five dollars and seventy three cents (\$2,245.73). Payment shall be made by cashier's check or money order to Kimberley Younger and shall be mailed on or before execution of this Agreed Order to the Department of Financial Institutions, Attn: Sally Mooney, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

2. In lieu of the imposition of a fine, the parties hereby agree that Allied shall make and tender (on or before the date of execution of this Agreed Order) a voluntary contribution to State Regulatory Registry, LLC, in the amount of two thousand five

hundred dollars (\$2,500) to support the Nationwide Mortgage Licensing System, jointly sponsored by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, with said contribution being mailed or hand delivered to Bill Matthews, Nationwide Mortgage Licensing System, 1155 Connecticut Ave. NW, Fifth Floor, Washington, D.C. 20036-4306, with a copy of the contribution check being mailed or hand-delivered on or before the date of execution of this Agreed Order to the Department of Financial Institutions, Attn: Sally Mooney, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. The execution of this Agreed Order by Allied does not constitute an admission by Allied of any violation of state or federal law. Allied is making payments and signing this Agreed Order for the purpose of settling and resolving the Department's allegations.

4. Allied waives its right to demand a hearing, at which it would be entitled to legal representation, to confront and cross examine witnesses for the Department, and to present evidence on its own behalf, or to otherwise appeal or set aside this Order. Further, Allied consents to and acknowledges the jurisdiction of the Department over this matter and that this Agreement is a matter of public record and may be disseminated as such.

4. The parties hereby agree that the individuals signing below are authorized to execute this Order and to bind their respective parties.

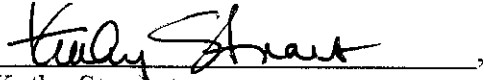
IT IS SO ORDERED on this the 28th day of September, 2009.



Charles A. Vice
Commissioner

Seen and Agreed to:

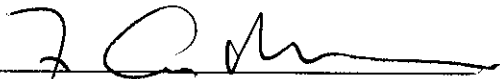
This 28 day of ~~June~~^{September}, 2009



Kathy Stewart
Director Division of Financial Institutions
Department of Financial Institutions

Seen and Agreed to:

This 16 day of Sept., 2009



F. Anthony Musgrave
Executive Vice President and General Counsel
Allied Home Mortgage Capital Corporation