

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2010-AH- 1125

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

FINAL ORDER

ASSOCIATES HOME MORTGAGE, INC.

RESPONDENT

* * * * *

The Commissioner of the Department of Financial Institutions (“DFI”) hereby enters this **Final Order** directing Associates Home Mortgage, Inc. (“Respondent” or “AHM”) to pay a fine of Two Thousand Five Hundred Dollars (\$2,500.00) and to offer restitution to or otherwise refund the borrower whose complaint initiated DFI’s investigation in the amount of Eight Hundred Fifty Dollars (\$850), which amount represents the unpaid balance of fees not properly disclosed on the Good Faith Estimate.

STATEMENT OF FACTS

1. The DFI is responsible for regulating and licensing mortgage loan originators and mortgage loan processors doing business in Kentucky in accordance with the provisions of KRS Chapter 286.8, the Mortgage Loan Company and Mortgage Loan Broker Act (the “Act”).

2. AHM was authorized to do business in Kentucky as a licensed mortgage loan broker (MB 16332) pursuant to the Act, with its principal place of business at 9720 Park Plaza Avenue, Suite 201, Louisville, Kentucky, 40241. The address provided for AHM with NMLS and the Kentucky Secretary of State's Office is 9720 Olympia Park Plaza, #201, Louisville, KY 40241. AHM's president and registered agent is Barbara Peters ("Peters"). Peters' address is 2363 Hawthorne Avenue, Louisville, Kentucky 40205. The Secretary of State shows AHM as "inactive" and in "bad status." AHM was administratively dissolved on November 2, 2010.

3. In 2009, the DFI received a complaint from a borrower (identified on Exhibit A) regarding a loan closing which was brokered by Peters and AHM. An investigation was conducted in accordance with KRS 286.8-190 to determine whether AHM and Peters had conducted their business in an unsafe or injurious manner or otherwise in violation of KRS Chapter 286.8.

4. The DFI's investigation concluded that AHM and Peters closed a loan without providing an accurate Good Faith Estimate ("GFE"), that AHM charged excessive fees at the closing, failed to redisclose the added fees on the GFE, inaccurately characterized the added closing fees as lender imposed extension fees, inaccurately identified the actual recipient of the closing fees, and failed to follow through on an agreement made with the borrower at closing to refund \$1,350 of the closing fees charged. The DFI considers this conduct to constitute acts, practices or a course of business that operates or would operate as a fraud or deceit in violation of KRS 282.8-220(2).

5. On November 19, 2010, 2010, DFI filed an Administrative Complaint (“Complaint”) against Respondent seeking a a civil fine and restitution pursuant to KRS Chapter 286.8.

6. The Complaint was sent to Respondent via certified mail, return receipt requested to Associates Home Mortgage, Inc., 9720 Park Plaza, Suite 201, Louisville, Kentucky 40241, the address listed on file with the DFI as Respondent’s last known mailing address. The Complaint was returned with the Postal Notation “Not Deliverable As Addressed—Unable to Forward.” The Complaint was also sent via certified mail, return receipt requested to Barbara Peters, Registered Agent, 2363 Hawthorne Avenue, Louisville, Kentucky 40205, and was delivered on November 23, 2010.

7. More than twenty (20) days has passed and the Respondent has failed to respond to the Complaint or request a hearing in this matter.

STATUTORY AUTHORITY

1. KRS 286.8-220(2)(b) provides that it is unlawful for any person, in connection with a transaction involving the mortgage lending process or mortgage loan business, to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

2. KRS 286.8-220(3) provides that it is unlawful for a mortgage loan broker to fail to make disclosures as required by statute or any other applicable state or federal law.

3. KRS 2826.8-270 states that a mortgage loan broker must exercise good faith and fair dealing and act in the best interest of the borrower and that all fees to be collected from the borrower must be properly disclosed in advance.

4. Pursuant to KRS 286.8-046, the Commissioner may levy a civil penalty against any person who violates and provision of KRS Chapter 286.8. The civil penalty shall be not less than \$1,000 nor more than \$25,000 per violation. The state's costs and expenses for the investigation and prosecution of the matter may also be assessed pursuant to KRS 286.8-046(1). In addition, the Commissioner may order restitution, refund, recovery of expenses, or direct such other affirmative action as he may deem necessary to address the statutory violation pursuant to KRS 286.8-046(2).

CONCLUSIONS

1. The Respondent violated KRS Chapter 286.8-220(2) as set forth herein and is subject to a fine and other equitable relief for these violations.

2. The Respondent was properly served the Complaint pursuant to KRS 286.8-044(2) and 808 KAR 12:030 by serving the Respondent and the Respondent's Registered Agent by certified mail.

3. The Respondent has failed to respond to the Complaint or request a hearing within twenty (20) days of service. Thus, the Respondent's right to a hearing was waived in this matter.

ORDER

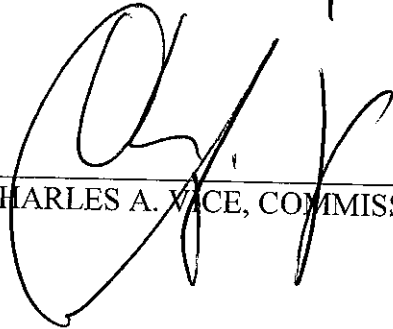
THEREFORE, based upon the foregoing statement of facts, statutory authority, and conclusions, the Commissioner **HEREBY ORDERS** that:

1. The Respondent pay a civil penalty in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) for violations of the Act;

2. The Respondent shall also offer restitution to or otherwise refund the borrower (identified on Exhibit A) whose complaint initiated DFI's investigation in the amount of Eight Hundred Fifty Dollars ("850), which amount represents the unpaid balance of fees not properly disclosed on the Good Faith Estimate.

3. 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 28th day of February, 2011.



CHARLES A. VANCE, 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 to, return receipt requested, on this the 28 th day of February, 2011 to:

Barbara J. Peters President Associates Home Mortgage, Inc. 9720 Park Plaza Avenue Suite 201 Louisville, Kentucky 40241	Barbara J. Peters Registered Agent 2363 Hawthorne Avenue Louisville, KY 40205
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William Owsley, Counsel