

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2014-AH-0026
ADMINISTRATIVE ACTION NO. 14-PPC-0222



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

ASSOCIATES MORTGAGE GROUP, and
HENRY BARTON NALLY, Individually

RESPONDENTS

**COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND FINAL ORDER OF DISMISSAL AS WITHDRAWN**

* * * * *

This matter is before the Commissioner of the Department of Financial Institutions ("DFI"), pursuant to KRS 13B.120. For the reasons set forth herein, the Commissioner hereby enters his **Findings of Fact, Conclusions of Law, and Final Order** adopting the Recommended Order of Dismissal as Withdrawn issued by the Hearing Officer and making additional findings of fact.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. The Department of Financial Institutions (DFI) 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.

2. On or about October 28, 2013, Respondent, Associates Mortgage Group, Inc., submitted an application to DFI to become licensed as a mortgage loan broker in Kentucky.

3. This Administrative Proceeding was initiated on June 17, 2014, when the DFI's Division of Nondepository Institutions served an Administrative Complaint against Respondents,

Associates Mortgage Group, Inc., and Henry Barton Nally, a.k.a. Henry Bart Nally (hereinafter “Nally”), seeking to deny Associates Mortgage Group, Inc.’s application to become licensed as a mortgage loan broker in Kentucky. The Complaint alleged that Associates Mortgage Group did not meet the minimum requirements for licensure in Kentucky and further had engaged acts of incompetence and untrustworthiness that tended to perpetrate a fraud upon the DFI.

4. The Administrative Complaint also alleged that Respondent, Nally, was an unnamed owner and control person of Associates Mortgage Group, Inc., and that Nally caused false and misleading filings to be made by Associates Mortgage Group. The Complaint sought an order against Nally to cease and desist from participating in any business activity in the mortgage lending process in Kentucky.

5. On July 24, 2014, and August 24, 2014, Respondent Nally, on behalf of Respondent, Associates Mortgage Group, Inc, filed identical Responses to the DFI’s Complaint.

6. Upon receipt of Respondents’ first response, the DFI requested the Administrative Hearings Branch of the Office of the Attorney General to assign a hearing officer to the case.

7. On August 6, 2014, the Administrative Hearings Branch of the Office of the Attorney General assigned Hearing Officer, James L. Dickinson, to hear the case, and the Hearing Officer thereupon issued an Order notifying the parties of his assignment, setting filing requirements, and scheduling a prehearing conference.

8. On August 25, 2014, the DFI filed a Motion to Withdraw Request for an Administrative Hearing. In its motion, DFI’s counsel, Walker C. Cunningham, represented that the parties had reached a settlement, that Respondents had withdrawn their application to become licensed as a mortgage loan broker in Kentucky, and that the DFI wished to withdraw its Complaint.

9. On August 27, 2014, the hearing officer issued his Recommended Order of Dismissal as Withdrawn and Notice of Exception and Appeal Rights.

10. No exceptions were filed.

11. Having considered the entire record in this matter, consisting of the pleadings of both parties, I hereby adopt as my own and incorporate herein the Recommended Order of Dismissal as Withdrawn and Notice of Exception and Appeal Rights issued by the Hearing Officer on August 27, 2014, in its entirety.

FINAL ORDER

THEREFORE, based upon the foregoing findings of fact and conclusions of law and pursuant to KRS 13B.120, IT IS HEREBY **ORDERED AS FOLLOWS:**

1. The Recommend Order of Dismissal as Withdrawn and Notice of Exception and Appeal Rights issued by the Hearing Officer on August 27, 2014, and attached hereto, is adopted in full and incorporated herein by reference into this Final Order;

2. In recognition of the fact that Respondents have **WITHDRAWN** their application to become licensed as a mortgage loan broker in Kentucky, this matter is hereby **DISMISSED AS WITHDRAWN**.

This is a **FINAL AND APPEALABLE ORDER**. The **EFFECTIVE DATE** of this order shall be the date reflected on the certificate of service attached to this order.

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 286.8-210, you are hereby notified that any person aggrieved by this Final Order of the Commissioner may obtain a review of the Order by the Franklin Circuit Court. If you chose to appeal, you must file a written petition asking that the order be modified or set aside in whole or in part in the Franklin Circuit Court within sixty (60) days after the date reflected on the certificate of service attached to this Final Order. A copy of the petition must be served upon the Commissioner.

SO ORDERED this 30th day of October, 2014.



CHARLES A. VICE
COMMISSIONER

Certificate of Service

I hereby certify that a true and correct copy of the foregoing **Final Order** was entered by the Commissioner and sent by certified mail, return receipt requested, on this the 16th day of October, 2014, to:

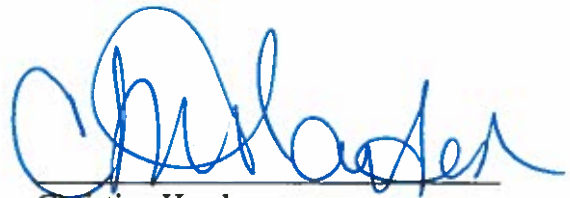
Henry Barton Nally, individually,
and as agent for Associates Mortgage Group, Inc.
P.O. Box 2464
Ponte Vedra Beach, FL 32004-2464

And by hand-delivery to:

Walker C. Cunningham
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, KY 40601
Counsel for Complainant

And by messenger mail to:

Hon. James L. Dickinson
Division of Administrative Hearings
Office of Attorney General
1024 Capital Center Drive
Frankfort, KY 40601



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

ENTERED
AUG 28 2014
COMMISSIONERS OFFICE

RECEIVED
AUG 28 2014
DFI/OGC

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2014-AH-0026
ADMINISTRATIVE ACTION NO. 14-PPC-0222

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

RECOMMENDED ORDER OF DISMISSAL AS WITHDRAWN
AND
NOTICE OF EXCEPTION AND APPEAL RIGHTS

ASSOCIATES MORTGAGE GROUP
AND HENRY BARTON NALLY

RESPONDENTS

* * * * *

The Hearing Officer having been informed by motion of the Complainant Department of Financial Institutions that the parties in this matter have reached a settlement in this case and therefore, the Complainant is withdrawing its Administrative Complaint in recognition of the fact the Respondents have withdrawn their applications; and the Hearing Officer being fully advised of the opinion this matter should be dismissed as being withdrawn;

IT IS HEREBY RECOMMENDED that the Commissioner enter a Final Order dismissing the above styled matter as withdrawn.

NOTICE TO PARTIES OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4):

a copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

Pursuant to KRS 13B.120(2):

the agency head may accept this recommended order and adopt it as the agency's final order, or it may reject or modify, in whole or in part, the

recommended order, or it may remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.

Pursuant to KRS 13B.120(4):

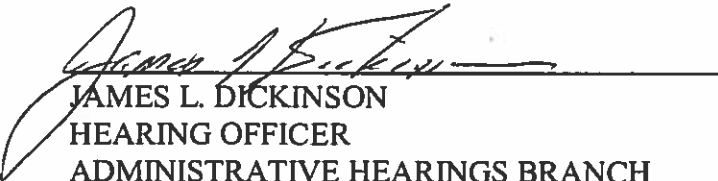
the agency head shall render a final order in an administrative hearing within ninety (90) days after the hearing officer submits a recommended order to the agency head, unless the matter is remanded to the hearing officer for further proceedings.

Pursuant to KRS 13B.140:

All final orders of an agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business.

Pursuant to KRS 23A.010(4), "Such review [by the Circuit Court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served when filing an appeal petition in the Circuit Court.

SO RECOMMENDED this 22nd day of August, 2014.


JAMES L. DICKINSON
HEARING OFFICER
ADMINISTRATIVE HEARINGS BRANCH
OFFICE OF THE ATTORNEY GENERAL
1024 CAPITAL CENTER DRIVE, SUITE 200
FRANKFORT, KY 40601-8204
(502) 696-5442
(502) 573-1009 Fax

CERTIFICATE OF SERVICE

I hereby certify that the original of this ORDER was served this 27th day of August, 2014 by messenger mail, to

GENERAL COUNSEL
DEPT OF FINANCIAL INSTITUTIONS
1025 CAPITAL CENTER DR STE 200
FRANKFORT KY 40601

for filing; and a true copy was served by first class mail, postage prepaid, to:

ASSOCIATES MORTGAGE GROUP
10033 SAWGRASS DR W STE 208
PONTE VEDRA BEACH FL 32004

HENRY BARTON NALLY
P O BOX 2464
PONTE VEDRA BEACH FL 32004

and by messenger mail, to:

WALKER C CUNNINGHAM
STAFF ATTORNEY
OFFICE OF GENERAL COUNSEL
DEPT OF FINANCIAL INSTITUTIONS
1025 CAPITAL CENTER DR STE 200
FRANKFORT KY 40601



DOCKET COORDINATOR

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