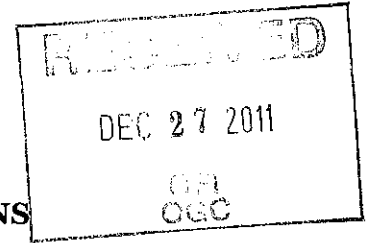


COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 20 11-AH-0203



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

AGREED ORDER

BRIAN WALLACE HERNDON

RESPONDENT

* * * * *

1. The Department of Financial Institutions (“DFI”) is responsible for regulating and licensing mortgage loan brokers, mortgage loan companies, mortgage loan originators, and mortgage loan processors in accordance with the provisions set forth in KRS Chapter 286.8, the Mortgage Licensing and Regulation Act (the “Act”).

2. Brian Wallace Herndon (“Respondent”) was, at all relevant times herein, employed as a mortgage loan originator by Paramount Mortgage Funding, Inc. (“PMF, Inc.”), a mortgage loan broker licensed to conduct such business in Kentucky pursuant to the Act. Respondent’s Respondent’s Nationwide Mortgage Licensing System and Registry (“NMLS”) number is 66864.

3. However, Respondent is not and has not been registered in Kentucky as a mortgage loan originator pursuant to the Act and is not otherwise authorized to engage in such business in Kentucky.

4. In August 2011, the DFI began an investigation of a complaint alleging that an unregistered mortgage loan originator was transacting business in Kentucky in violation of the Act. During this examination, the DFI discovered that Respondent had, while an employee of PMF, Inc., unlawfully engaged in the business of a mortgage loan originator in Kentucky in connection with a mortgage loan recorded under the unique NMLS identifier of a fellow PMF, Inc. employee. This activity constitutes a violation of

KRS 286.8-030(1)(c) and KRS 286.8-255(1), which prohibit a natural person from transacting business, either directly or indirectly, as a mortgage loan originator or mortgage loan processor unless the individual is registered in accordance with KRS 286.8-255; and KRS 286.8-220(2)(b), which makes it unlawful for any person, in connection with a transaction involving the mortgage loan process, or in connection with the operation of a mortgage loan business or the management or servicing of mortgage loans, directly or indirectly to engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person.

5. The DFI possesses a range of administrative authority in addressing violations of the Act, including license revocation or denial, and/or the imposition of fines in an amount up to \$25,000 per violation. *See* KRS 286.8-046; 286.8-090.

6. In this case, the DFI has assessed a fine against Respondent in the amount of one thousand, five hundred dollars (\$1,500.00) for the violations described herein.

7. Respondent does not admit to the violations alleged herein, and asserts that his actions were neither willful nor intentional; however Respondent is entering into this Agreed Order in lieu of proceeding with a formal hearing on the issues that comprise this matter.

8. In the interest of economically and efficiently resolving the violation(s) described herein, the DFI and Respondent agree as follows:

- a. Respondent agrees to a fine assessment in the amount of one thousand, five hundred dollars (\$1,500.00) for the alleged violation(s) described herein;
- b. Respondent agrees to and shall pay the total fine assessed herein in four (4) equal monthly installment payments of three hundred and

seventy-five dollars (\$375.00) each, the first of which shall be due on the date Respondent executes the Agreed Order and returns it to the DFI, but in no event later than December 26, 2011. All subsequent installments shall be due and paid by no later than the 26th of each month thereafter until paid in full. Said payments 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: Michael T. Davis, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601; and

- c. Respondent shall devote the time and resources necessary to ensure continual and full compliance with all statutory requirements set forth in the Act and the regulations set forth in 808 KAR Chapter 12.

7. Respondent waives his right to demand a hearing at which he would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on his own behalf, or to otherwise appeal or set aside this Order.

8. Respondent consents to and acknowledges the jurisdiction of the DFI over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

9. In consideration of execution of this Agreed Order, Respondent for himself, and for his successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the DFI, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands

whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

10. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

11. This Agreed Order shall constitute the Final Order in this matter.

IT IS SO ORDERED on this the 3rd day of January, ~~2011~~ ²⁰¹².

CHARLES A. VICE
COMMISSIONER

Consented to:

This 27th day of December, 2011.
Nicole Biddle
Nicole Biddle, Director
Division of Non-Depository Institutions
Department of Financial Institutions

This 22 day of December, 2011.
Brian Wallace Herndon
Brian Wallace Herndon

ACKNOWLEDGEMENT

STATE OF Florida)
)
COUNTY OF Lee)

On this the 22 day of December, 2011, before me Elaine C. Cobb, the undersigned, Brian Wallace Herndon, did personally appear and entered into and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand.

My Commission Expires: April 23, 2014

Elaine C Cobb
Notary Public

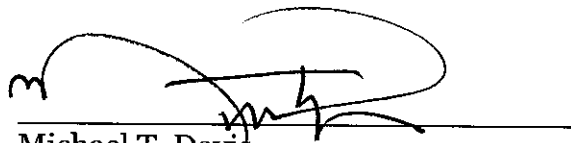


Certificate of Service

I, Michael T. Davis, hereby certify that a copy of the foregoing Agreed Order was sent on this the 3rd day of January, 2002, by certified mail, to the following:

Brian Wallace Herndon
3444 Marinatown Lane, Suite 15
N. Fort Myers, Florida 33903

Brian Wallace Herndon
3221 Sea Haven Court, #2
N. Fort Myers, Florida 33903



Michael T. Davis
Department of Financial Institutions
1025 Capital Center Drive
Suite 200
Frankfort, Kentucky 40601
502-573-3390 ext. 240 (phone)
502-573-2183 (facsimile)