

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
~~AGENCY CASE NO. 2008-AH-221~~
ADMINISTRATIVE ACTION NO. 08-PPC-0380

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

VS.

COMMONWEALTH MORTGAGE, LLC
AND
JAMES S. DOYLE
AND
WILLIAM C. PELFREY

RESPONDENTS

AGREED ORDER

BACKGROUND AND FACTUAL FINDINGS

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, the Mortgage Loan Company and Mortgage Loan Broker Act.

2. Commonwealth Mortgage, LLC applied for and was issued a mortgage broker license by DFI for the purpose of engaging in the mortgage broker business in the Commonwealth of Kentucky at an office located at 207 Broadway, Suite 6, Paintsville, Kentucky 41240. Said license expired on December 31, 2008 and has not been renewed.

3. James S. Doyle was registered with DFI as a mortgage loan originator pursuant to KRS 286.8-255. Said registration expired on June 30, 2008 and has not been

renewed. DFI's files indicated that Mr. Doyle was the sole owner of Commonwealth Mortgage, LLC.

4. William C. Pelfrey is registered with DFI as a mortgage loan originator pursuant to KRS 286.8-255. Said registration expired on December 31, 2008 and has not been renewed. Mr. Pelfrey was the manager of Commonwealth Mortgage, LLC.

5. On March 5, 2007, an examination was conducted of Commonwealth Mortgage, LLC. On March 26, 2007, an examination report was issued by DFI and sent to Mr. James S. Doyle at the business address of Commonwealth Mortgage. On April 25, 2007, DFI received a response to the examination report issued on March 26, 2007. In its response to DFI, William C. Pelfrey, on behalf of Commonwealth Mortgage, LLC, acknowledged overcharging two borrowers by \$830 and \$400, respectively. Mr. Pelfrey falsely represented to DFI that these borrowers had been refunded the above amounts when in fact the refunds were never made.

6. In addition to the refunds referenced above, the March 26, 2007 examination report cited numerous violations of KRS Chapter 286.8 by Commonwealth Mortgage, LLC. On November 1, 2007, Mr. Doyle entered into a settlement agreement, on behalf of Commonwealth Mortgage, LLC to make \$4,500 in contributions to resolve the violations set forth in the examination report.

7. On April 14, 2008, another examination was conducted into the condition, workings and affairs of the principal location in order to determine whether: (1) it was in compliance with applicable laws and regulations; (2) its practices and policies had an adverse impact on prospective borrowers; and (3) it was being operated efficiently, fairly, and in the public interest.

8. In the course of that examination it was discovered that Commonwealth Mortgage, LLC violated several provisions of Chapter 286.8 of the Kentucky Revised Statutes, as well as federal R.E.S.P.A. laws.

9. DFI's examiner documented the employment of one unregistered loan originator, Keith Adams, in violation of KRS 286.8-255 and KRS 286.8-090(1)(m). This was a repeat violation.

10. Commonwealth Mortgage, LLC failed to respond to the examination report issued on May 23, 2008, despite being explicitly instructed to do so in writing on May 23, 2008 and again on August 4, 2008.

11. Commonwealth Mortgage, LLC failed to pay the examination fee bill in the amount of \$819.00, despite being explicitly instructed to do so in writing on May 23, 2008 and again on August 4, 2008.

12. On October 31, 2008, DFI received a Motion for Extension of Time; or In the Alternative, Answer to Administrative Complaint. In this answer, James S. Doyle stated that "the ownership of Commonwealth Mortgage is 50% James S. Doyle and 50% William C. Pelfrey"

13. In its application and subsequent renewal applications for licensure, Commonwealth Mortgage, LLC stated that it was 100% owned by James S. Doyle. At no time did DFI receive a written request for approval for change of control in Commonwealth Mortgage, LLC.

14. After failing to timely respond to the examination report or to pay its fee bill, DFI filed an administrative complaint against Respondents on October 9, 2008 and

an amended Administrative Complaint on December 22, 2008. Respondents submitted responses to the complaint on October 31, 2008 and on December 19, 2008.

15. Respondents state that they did not intend to mislead DFI or to violate Kentucky law. Respondents further state that they have no intention of returning to the mortgage loan business.

Statutory Authority

16. Pursuant to KRS 286.8-170(5), a mortgage loan broker shall pay a fee for each examination conducted by DFI based on fair compensation for time and actual expense.

17. Pursuant to KRS 286.8-220(1) and (2), it is unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under KRS Chapter 286.8, any statement which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect, or to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

18. Pursuant to KRS 286.8-255(7), all mortgage loan originators are subject to all applicable provisions of KRS Chapter 286.8.

19. Pursuant to KRS 286.8-090, the commissioner may deny, suspend, or revoke any license or registration when the licensee or registrant does not meet or has failed to comply with the requirements of KRS 286.8; does not conduct his business in accordance with law or the method of business includes or would include activities which are illegal where performed, or has willfully violated any provision of KRS 286.8 or any regulation

thereunder; has made any misrepresentations or false statements to, or concealed any essential or material fact from any person in the course of acting as a mortgage loan broker, or has engaged in a course of business which has worked or tended to work a fraud upon any person or would so operate; has failed, within a reasonable time, to furnish any information or make any report that may be required by the commissioner; has employed or contracted with a person who has failed to register; has had any license or registration related to the financial services industry revoked; or has demonstrated incompetence or untrustworthiness to act as a licensee or registrant.

20. Pursuant to KRS 286.8-075, a transfer of voting stock of a mortgage loan company or mortgage loan broker which constitutes a change of control shall be approved in writing by the executive director [now commissioner] prior to the transfer. A "change of control" means "a transfer of at least ten percent (10%) of the outstanding voting stock of a mortgage loan company or mortgage loan broker."

21. Pursuant to former KRS 286.8-990(5), the executive director [now commissioner] may assess a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) against any regulated person that violates any provision of KRS Chapter 286.8.

AGREEMENT AND ORDER

The Department of Financial Institutions and Respondents in the interest of economically and efficiently resolving the violations set forth in the foregoing Background and Factual Findings, agree as follows:

1. While denying any intent to violate the provisions of KRS Chapter 286.8, Commonwealth Mortgage, LLC hereby consents to the revocation of its license as a mortgage loan broker. The Commissioner HEREBY REVOKES the mortgage broker license of Commonwealth Mortgage, LLC.

2. Commonwealth Mortgage, LLC, James S. Doyle, and William C. Pelfrey, jointly and severally, hereby agree to and shall pay the outstanding fee bill in the amount of \$819.00 as well as make the refunds in the amounts of \$830 and \$400, respectively, prior to the execution of this Order, which shall be in the form of certified checks or money orders made payable to the appropriate parties and mailed to the Department of Financial Institutions, Attn: Jessica Sharpe, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. James S. Doyle and William C. Pelfrey hereby agree to and SHALL BE ORDERED to not engage in the transaction of, or participation in, any mortgage loan business in Kentucky, or in any business activity on the premises where a licensee or registrant is conducting business, including but not limited to transacting business as a mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor for a period of three (3) years from the date of this order.

4. James S. Doyle and William C. Pelfrey shall become eligible to apply for a license, registration, or claim of exemption as a mortgage loan broker, mortgage loan

company, mortgage loan originator, or mortgage loan processor upon the expiration of the three (3) year period set forth above so long as the provisions of this agreement are complied with and not violated in any way.

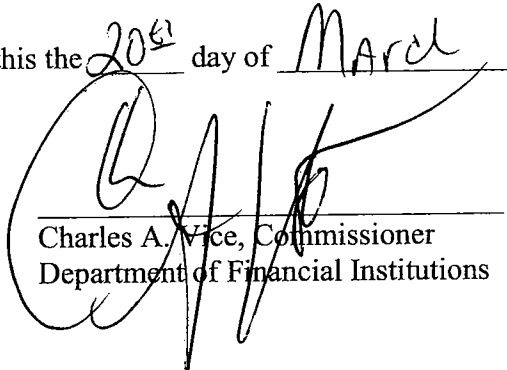
5. Upon a finding by the Commissioner that any party has violated any provision of this agreement, the violating party or parties shall be and hereby agree to be PERMANENTLY BARRED from: (1) applying for a license, registration, or claim of exemption as a mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor in Kentucky; and (2) from engaging in the transaction of, or participation in, any mortgage loan business in Kentucky, or in any business activity on the premises where a licensee or registrant is conducting business, including but not limited to transacting business as a mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor. A party determined to have violated this Agreement shall be entitled to an administrative hearing as to whether such a finding should be entered; however, the propriety or determination of the sanction of permanent bar for any such finding is hereby agreed to and shall not be the subject of any such hearing. In addition, the violating party or parties shall further be subject to any and all civil and criminal penalties permitted under Kentucky law, including but not limited to the imposition of fines and injunctions.

6. In regard to this matter, Respondents, jointly and severally, waive their right to demand a hearing, at which Respondents would be entitled to legal representation, to confront and cross examine witnesses for the Department of Financial Institutions, and to present evidence on their own behalf, or to otherwise appeal or set aside this Order. Further, Respondents consent to and acknowledges the jurisdiction of

the Department of Financial Institutions over this matter and that this Agreement is a matter of public record and may be disseminated as such.

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

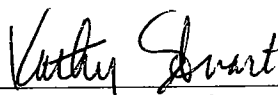
IT IS SO ORDERED on this the 20th day of March, 2009.



Charles A. Vice, Commissioner
Department of Financial Institutions

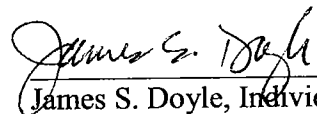
Agreed to:

This 19 day of March, 2009.



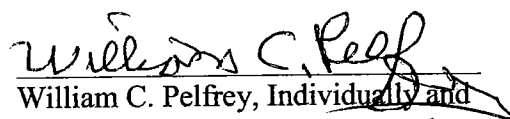
Kathy Stewart, Director
Division of Financial Institutions
Department of Financial Institutions

This 16 day of March, 2009.



James S. Doyle, Individually
and, in his capacity as managing
member, on behalf of
Commonwealth Mortgage, LLC

This 16 day of March, 2009.



William C. Pelfrey, Individually and
in his capacity as managing member,
on behalf of Commonwealth
Mortgage, LLC

Certificate of Service


I hereby certify that on this the 26 day of March, 2009, a copy of the foregoing **Agreed Order** was sent by Certified Mail, return receipt requested, to the following:

James S. Doyle
291 North Lake Drive, Suite 102
Prestonsburg, Kentucky 41653
Counsel for Mr. Doyle
Counsel for Commonwealth Mortgage, LLC

William C. Pelfrey
222 Bryant Drive
Staffordsville, Kentucky 41256

And by messenger mail to:

Hon. Michael Head
Hearing Officer
Division of Administrative Hearings
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204



Maria A. "Sally" Mooney
Counsel
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
(502) 573-3390 ext. 235