

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2010-AH-85

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**FINAL ORDER**

D & R MORTGAGE CORPORATION  
d/b/a METRO FINANCE

RESPONDENT

\* \* \* \* \*

This matter is before the Commissioner of the Department of Financial Institutions (“DFI”), pursuant to KRS 286.8-044. The Commissioner hereby enters this **Final Order** imposing a \$25,000 fine and ordering D & R Mortgage Corporation d/b/a Metro Finance (“Respondent”) to cease and desist from transacting business in Kentucky with unregistered mortgage loan originators and processors, pursuant to KRS Chapter 286.8.

**FINDINGS OF FACTS**

1. DFI is responsible for regulating and licensing mortgage loan companies and mortgage loan brokers in accordance with the provisions of KRS Chapter 286.8.
2. Respondent was authorized to do business in Kentucky as an exempt mortgage loan company (ME 18183), pursuant to KRS Chapter 286.8. The principle place of business for Respondent was located at 29870 Middlebelt Road, Suite 100, Farmington Hills, MI 48334.
3. DFI discovered that Respondent utilized unregistered loan originators to originate loans in Kentucky during the calendar year 2008 in violation of KRS 286.8-030.
4. As a result of the investigation, DFI issued an Administrative Complaint seeking a \$25,000 fine, any costs associated with the prosecution of this matter, and a cease and desist

order against Respondent. The Complaint was sent to Respondent's last known address, 29870 Middlebelt Road, Suite 100, Farmington Hills, MI 48334.

5. The Administrative Complaint explained that the Respondent must file an answer to the Complaint, including a request for hearing, within twenty (20) days of service. The Administrative Complaint also explained that if a request for hearing was not received within 20 days, DFI would seek a Final Order from the Commissioner granting the relief requested in the Complaint.

6. Respondent signed for the Administrative Complaint, but did not appeal the Administrative Complaint. Subsequent to receiving the Administrative Complaint, Respondent contacted DFI in an effort to settle this matter.

7. DFI and Respondent agreed to a settlement and DFI forwarded a proposed Agreed Order to Respondent. After several attempts to contact Respondent in order to effectuate the entry of the Agreed Order, DFI and Respondent have not entered into an Agreed Order settling this matter.

8. After having considered all the relevant facts and circumstances and the available remedies, the Respondent should be fined \$25,000 and a cease and desist order should be issued against Respondent.

#### **STATUTORY AUTHORITY**

9. Pursuant to KRS 286.8-255(1), "No natural person shall transact business in Kentucky, either directly or indirectly, as a mortgage loan originator or mortgage loan processor unless such mortgage loan originator or mortgage loan processor is registered with the department and has been issued a current certificate of registration by the department, complies with all applicable requirements of this subtitle, and maintains a valid unique identifier issued by

the Nationwide Mortgage Licensing System and Registry. The department shall maintain a database of all mortgage loan originators and mortgage loan processors originating or processing mortgage loans on residential real property in Kentucky. The department shall issue a certificate of registration to all registered mortgage loan originators and mortgage loan processors.”

10. KRS 286.8-030(1) makes it unlawful for any mortgage loan company or mortgage loan broker to use an unregistered mortgage loan originator.

11. Pursuant to KRS 286.8-090(1)(a), (m), and (v), the Commissioner may issue a cease and desist order if the Commissioner finds that a person has failed to comply with the requirements of KRS Chapter 286.8, the person has employed an unregistered loan originator, or the person has violated any provision of KRS Chapter 286.8.

12. KRS 286.8-046 gives the Commissioner the ability to levy a civil penalty against any person who violates provisions of KRS Chapter 286.8. The civil penalty shall not be less than \$1,000 nor more than \$25,000 per violation.

13. KRS 286.8-044(2) states in pertinent part, “The Commissioner shall serve the administrative complaint by certified mail or personal delivery to the last known address of the person named in the complaint. The person named in the administrative complaint shall be entitled to a hearing, but only upon timely receipt of a written answer and request for a hearing within twenty (20) days of the service or hand delivery of the administrative complaint.”

14. KRS 286.8-044(3) explains that service by certified mail is complete upon the earlier of the following:

- (a) The date on which the person receives the mail;
- (b) The date on which the agency receives the return receipt; or
- (c) The date on which the agency receives notice that the mail has been returned undelivered.

### CONCLUSIONS OF LAW

15. Respondent has violated KRS 286.8-030 by utilizing unregistered loan originators. As a result, Respondent is subject to a fine of \$25,000 and a cease and desist order.

16. The Respondent was properly served the Complaint pursuant to KRS 286.8-044(2) by serving the Respondent by certified mail to the last known address of the Respondent. Moreover, Respondent has failed to timely appeal the Administrative Complaint. Thus, the Respondent has not perfected its appeal and its right to a hearing is waived in this matter.

### ORDER

Based on the Findings of Fact, Statutory Authority, and Conclusions of Law set forth above, the Commissioner **ORDERS** that:

1. D & R Mortgage Corp. d/b/a Metro Finance shall pay a civil penalty in the amount of twenty five thousand dollars (\$25,000.00) for violation of KRS 286.8-030. The check 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: Shaun T. Orme, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601; and

2. D & R Mortgage Corp. d/b/a Metro Finance shall **CEASE AND DESIST** from transacting business in Kentucky with unregistered loan originators and processors until such time as any unregistered mortgage loan originator or processor is properly registered pursuant to KRS Chapter 286.8.

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 and KRS 286.8-210.

**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.

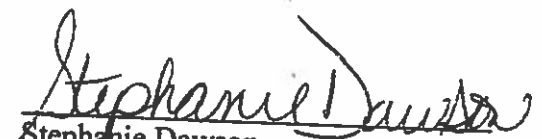
**IT IS SO ORDERED** on this the 3<sup>rd</sup> day of JANUARY, 2012.

  
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CHARLES A. VICE  
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 31<sup>st</sup> day of January, 2012 to:

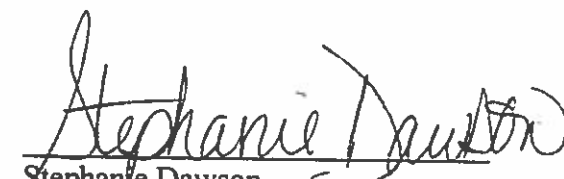
David Glass  
Compliance  
D & R Mortgage Corp., d/b/a  
Metro Finance  
29870 Middlebelt Rd. Ste. 100  
Farmington Hills, MI 48334

  
Stephanie Dawson  
Department of Financial Institutions

**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 11 day of January, 2012 to:

David Glass  
Compliance  
D & R Mortgage Corp., d/b/a  
Metro Finance  
P.O. Box 721204  
Berkley, MI 48072-0204

  
Stephanie Dawson  
Department of Financial Institutions