

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
ADMINISTRATIVE AGENCY ACTION NO. 2016-AH-00039



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

DEBRA PITNEY

RESPONDENT

**FINAL ORDER**  
**DENYING APPLICATION**  
**FOR MORTGAGE**  
**LOAN ORIGINATOR REGISTRATION**

The Department of Financial Institutions ("DFI") is responsible for administering the provisions of Kentucky Revised Statutes ("KRS") Chapter 286.8, as well as any applicable rules, regulations and Orders entered pursuant to KRS 286.8. Pursuant to KRS 286.8-044(1), the commissioner of DFI enters this Final Order denying the application of Respondent Debra Pitney ("Pitney" or "Respondent") for registration as a mortgage loan originator.

**FINDINGS OF FACT**

1. The DFI's Division of Non-Depository Institutions received a completed application from Pitney for registration as a mortgage loan originator on February 22, 2016. The process includes completion of a loan originator application through the Nationwide Mortgage Licensing System and Registry ("NMLS") for an originator

registration.<sup>1</sup> DFI mandated the completion and submission of this application in its regulation, 808 KAR 12:021, Section 3.

2. To become registered or licensed in Kentucky, all mortgage entities and individuals, including mortgage loan originators, must use NMLS for submitting licensing and registration applications. An individual may not engage in the business of a loan originator in the Commonwealth of Kentucky without first obtaining registration as a loan originator, pursuant to KRS 286.8-255. DFI has participated in NMLS since its launch in 2008. NMLS is a collaborative effort among state regulators to bring greater efficiency and accountability to the supervision of the mortgage industry. NMLS is a registry, established pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act ("S.A.F.E. Act"), codified as 12 U.S.C. 5101, *et seq.* The registry is statutorily created to accomplish several goals, including, but not limited to, providing uniform license applications and reporting requirements for state-licensed loan originators, providing a comprehensive licensing and supervisory database and to aggregate and improve the flow of information to and between regulators.

3. In completing her loan originator application, Parker answered "No" to the following question in the financial disclosure section:

(D) Do you have any unsatisfied judgments or liens against you?

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<sup>1</sup> NMLS is the abbreviation for Nationwide Mortgage Licensing System. The system was developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. NMLS is maintained by the Conference of State Bank Supervisors and the State Regulatory Registry on behalf of state financial services regulatory agencies.

4. In the attestation section of the final page of her February 22, 2016 NMLS application, Pitney swore and affirmed the following:

(1) That the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, **are current, true, accurate and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law.**

(3) **That the jurisdiction(s) to which an application is being submitted may conduct any investigation into my background, in accordance with all laws and regulations.**

*(Emphasis added)*

5. After receipt of Pitney's February 22, 2016 registration application, DFI reviewed her TransUnion Credit Report, dated February 18, 2016 (hereinafter, "Credit Report"). Within the Credit Report, the public records section listed the existence of a state tax lien, reported on September 10, 2012, in the amount of \$63,553.00.

6. The aforementioned lien was filed by the Commonwealth of Kentucky's Department of Revenue, Division of Collections. **The lien was filed and recorded in the Office of the Hardin (Kentucky) County Clerk on September 10, 2012 in Book 127 at Page 1308.**

7. On March 9 2016, counsel for DFI mailed a Notice of Entry of Order of Denial of Mortgage Loan Originator Registration to Pitney. The notice was sent via certified mail, return receipt requested to Pitney's home address, 2800 Colonial Drive, Radcliff, Kentucky 40160. The notice explained that the commissioner would enter a Final Order denying the application for registration as a mortgage loan originator unless Pitney withdrew the application or made a written request for hearing within twenty (20) days of service of the notice.

8. On March 16, 2016, Pitney signed for the certified mail containing Notice of Entry of Order of Denial of Mortgage Loan Originator Registration.

9. More than twenty (20) days have passed and Pitney has not filed any written withdrawal of her application nor has she submitted a written request for a hearing.

### **STATUTORY AUTHORITY**

10. KRS 286.8-090(1)(h) provides that the commissioner may deny registration as a mortgage loan originator if the applicant has made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information that the person possesses and which, if submitted to the commissioner, would have rendered the person ineligible to be licensed or registered.

11. KRS 286.8-090(1)(n) states that the commissioner may deny registration as a mortgage loan originator if the applicant "has demonstrated incompetence or untrustworthiness to act as a licensee or registrant or to continue a claim of exemption granted by application under this subtitle."

12. KRS 286.8-090(1)(v) provides that the commissioner may deny registration as a mortgage loan originator if the applicant "has violated any provision of this subtitle, administrative regulation promulgated hereunder, or order issued by the commissioner."

13. Pursuant to KRS 286.8-220(1), "it shall be unlawful for any person to make or cause to be made, in any document filed with the commissioner, a governmental agency, the Nationwide Mortgage Licensing System and Registry, or in any proceeding

under this subtitle, any statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect, including an omission of a material fact.”

14. Pursuant to KRS 286.8-255(8), as part of the application process for a person seeking registration as a mortgage loan originator, the commissioner may require the submission of background records checks, including but not limited to checks for state, federal, and international criminal histories, civil or administrative records, and any other information as deemed necessary to comply with the minimum requirements set forth the federal S.A.F.E. Act, as well as the submission of an independent credit report obtained from a consumer reporting agency described in the Fair Credit Reporting Act, 15 U.S.C. 1681a, as part of an application.

15. Pursuant to KRS 286.8-255(9)(c), no applicant for registration as a mortgage loan originator shall be granted a certificate of registration unless “the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator or loan processor will operate honestly, fairly, lawfully, and efficiently within the purposes of the subtitle.”

#### **CONCLUSIONS OF LAW**

16. Pursuant to KRS 286.8-255(8), the commissioner of DFI has received the Respondent’s application and Credit Report and conducted an inquiry into compliance with requirements of the subtitle.

17. In completing and submitting her information through NMLS on February 22, 2016 for her mortgage loan originator registration application, Respondent Pitney made a materially false and inaccurate statement in failing to affirmatively acknowledge the existence of a state tax lien against her.

18. In completing and submitting her information through NMLS on February 22, 2016 for her mortgage loan originator registration application, Respondent Pitney has demonstrated untrustworthiness in failing to affirmatively acknowledge the existence of a state tax lien against her.

19. The above-named action is a violation of KRS 286.8-220(1). Based on this action, the commissioner of DFI finds that Pitney does not satisfy the minimum registration standards outlined in KRS 286.8-255(9)(c), and that this action justifies registration denial pursuant to KRS 286.8-090, as follows:

- KRS 286.8-090 (1) (h): Respondent has made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information that the person possesses and which, if submitted to the commissioner, would have rendered the person ineligible to be licensed, registered, or exempted from licensing or registration under this subtitle; and,
- KRS 286.8-090 (1) (n): Respondent has demonstrated incompetence or untrustworthiness to act as a licensee or registrant or to continue a claim of exemption granted by application under this subtitle; and,
- KRS 286.8-090 (1) (v): Respondent has violated any provision of this subtitle, administrative regulation promulgated hereunder, or order issued by the commissioner.

20. In failing to disclose the existence of a state tax lien on her application, Pitney has not demonstrated, pursuant to KRS 286.8-255(9)(c), financial responsibility such as to command the confidence of the community and to warrant a determination that she will operate honestly, fairly, lawfully, and efficiently within the purposes of KRS 286.8.

21. In failing to disclose the existence of a state tax lien on her application, Pitney has not demonstrated, pursuant to KRS 286.8-255(9)(c), character such as to command the confidence of the community and to warrant a determination that she will operate honestly, fairly, lawfully, and efficiently within the purposes of KRS 286.8.

22. In failing to disclose the existence of a state tax lien on her application, Pitney has not demonstrated, pursuant to KRS 286.8-255(9)(c), general fitness such as to command the confidence of the community and to warrant a determination that she will operate honestly, fairly, lawfully, and efficiently within the purposes of KRS 286.8.

### **ORDER**

23. **THEREFORE**, based upon the foregoing findings of fact and conclusions of law, the commissioner hereby **ORDERS** that Debra Pitney's application for registration as a mortgage loan originator is **DENIED**.

24. 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 choose 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.

IT IS SO ORDERED on this the 11<sup>th</sup> day of April 2016.

  
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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 return receipt requested on this the 12 day of April, 2016, to the following:

**Debra Pitney  
2800 Colonial Drive  
Radcliff, Kentucky 40160**

And hand delivered to:

Tiffany Bowman  
Attorney  
Department of Financial Institutions  
1025 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601



Department of Financial Institutions