

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2010-AH-079

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**ORDER TO CEASE AND DESIST**

HOME OWNERSHIP POSSIBILITIES FOR EVERYONE, LLC

RESPONDENT

\* \* \* \* \*

Comes now, the Commonwealth of Kentucky, by and through the Commissioner of the Department of Financial Institutions (“DFI”), and hereby enters this **Order** directing Home Ownership Possibilities for Everyone, LLC (“H.O.P.E.” or “Respondent”) to immediately **Cease and Desist** from engaging in the mortgage loan process in Kentucky.

**FINDINGS OF FACT**

1. DFI is responsible for regulating and licensing mortgage loan brokers in accordance with the provisions of KRS 286.8. It is unlawful for a person to transact business in Kentucky as a mortgage loan broker, unless that person is registered with DFI and complies with all the applicable requirements of KRS 286.8. *See* KRS 286.8-030.

2. As the result of a consumer inquiry, DFI began investigating H.O.P.E. DFI learned that the Respondent’s website lists a corporate address of 9900 Corporate Campus Drive, Suite 3000, Louisville, Kentucky 40223. In addition, the website explains that H.O.P.E. offers residential mortgage based loans for purchasing or refinancing. H.O.P.E. is not licensed as mortgage loan broker or registered as an exempt company with DFI.

3. On May 25, 2010, an investigator with DFI visited the Respondent's corporate office. David "Jay" Godwin ("Mr. Godwin") represented himself as the owner of H.O.P.E. H.O.P.E. registered with the Kentucky Secretary of State as a limited liability corporation. The Secretary of State filing lists H.O.P.E.'s principal office as 15005 Forest Oaks Drive, Louisville, Kentucky 40245 and its registered agent as David C. Godwin, 15005 Forest Oaks Drive, Louisville, Kentucky 40245.

4. Mr. Godwin described the H.O.P.E. as a home loan program that allows borrowers to refinance or purchase homes with no closing costs and a no interest rate loan. A flat fee finance charge is added to the total loan amount and paid in five year increments, over the term of the loan. As an ostensible agent, H.O.P.E. collects the borrowers' information and sends it to Redemption Funding Group ("Redemption").<sup>1</sup> Redemption then forwards the information on to Spiritual Empowerment Equals Economic Development (S.E.E.E.D.) Consortium, LLC for funding.<sup>2</sup> Of the flat fee, H.O.P.E. receives 4% for its "broker" services and Redemption receives 5% of the flat fee for its "referral" services. S.E.E.E.D. gets the remaining 91% of the flat fee.

5. H.O.P.E. touts a nontraditional loan that is not based exclusively on credit. The investigation revealed that potential borrowers submit a registration application to H.O.P.E. that describes the subject property and the outstanding mortgage on the property. Potential borrowers are also required to submit two years of tax returns, two years of W-2s, and their last two pay stubs. If the borrower is approved, S.E.E.E.D. and the borrower enter into a Memorandum of Understanding ("MOU"). The MOU details the amount of the loan, how the flat fee is to be paid, and the potential closing date.

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<sup>1</sup> Redemption is located in Dalton, Georgia.

<sup>2</sup> S.E.E.E.D. is incorporated in Nevada.

6. As part of this application process with H.O.P.E., borrowers must pay an upfront \$300 membership for S.E.E.E.D. This fee is nonrefundable. S.E.E.E.D. also requires 3%- 3.5 % of the loan amount to be paid up front that is paid to an escrow fund. The membership fees and the upfront 3%- 3 ½ % fees have been deposited in an account owned by S.E.E.E.D.

7. Respondent supplied DFI with a list of borrowers who have applied for a home loan through H.O.P.E. As of May 28, 2010, H.O.P.E. had 165 loans in the pipeline, of which 40 involved Kentucky properties.

8. Also among this list are four loans on Kentucky properties that purportedly closed on May 21, 2010. However, Mr. Godwin informed the investigator that the loans were not actually funded on the closing date. This is what is known as a "dry closing."

9. As of June 7, 2010, the dry closed loans had not been funded.

10. H.O.P.E. is acting as a mortgage broker in Kentucky without holding a license or a claim of exemption. Moreover, with regards to the potential borrowers, H.O.P.E. has made misrepresentations of false statements; and/or concealed essential material facts during the mortgage lending process; and/or engaged in a course of business that has worked or tended to work a fraud or deceit.

11. H.O.P.E. has engaged in unsafe, unsound, and illegal practices that impose an imminent threat to the public interest.

### **CONCLUSIONS OF LAW**

12. Pursuant to KRS 286.8-010(17), the mortgage loan process means:

...the process through which a person seeks or obtains a mortgage loan, including the solicitation, application, origination, negotiation of terms, processing, underwriting, signing, closing, and funding of a mortgage loan and the services provided incident to a mortgage loan, including the appraisal of

the residential real property. Documents involved in the mortgage lending process include but are not limited to:

(a) Uniform residential loan applications or other loan applications;

(b) Appraisal reports;

(c) Settlement statements;

(d) Supporting personal documentation for loan applications, including:

1. Form W-2 or other earnings or income statements;

2. Verifications of rent, income, and employment;

3. Bank statements;

4. Tax returns; and

5. Payroll stubs;

(e) Any required mortgage-related disclosures; and

(f) Any other document required as a part of, or necessary to, the mortgage lending process;

13. A mortgage loan broker is, "...any person who for compensation or gain, or in the expectation of compensation or other gain, received directly or indirectly, serves as an agent for any borrower in an attempt to obtain a mortgage loan, or holds oneself out as being able to do so." *See* KRS 286.8-010(19).

14. KRS 286.8-190 grants DFI the power to investigate by complaint or otherwise when it appears that any person is conducting business in an unsafe and injurious manner or is in violation of KRS Chapter 286.8.

15. KRS 286.8-030(1)(a) makes it unlawful for, "...any person to transact business in Kentucky, either directly or indirectly, as a mortgage loan company or mortgage loan broker if

the mortgage loan company or mortgage loan broker is not licensed in accordance with the requirements of this subtitle, unless that person is exempt under KRS 286.8-020 and, if required by KRS 286.8-020(3) has timely filed a completed application for a claim of exemption, and the filed application for a claim of exemption has been approved by the executive director..”

16. KRS 286.8-120(6) states, “No person shall receive any fee or other compensation of any kind in connection with procuring any loan, except for services actually rendered as above provided, and in no event shall a mortgage loan company or mortgage loan broker require the payment of a fee greater than one hundred dollars (\$100) as a condition to submitting a loan application unless the executive director shall otherwise prescribe by rule.”

17. Pursuant to KRS 286.048(1), the Commissioner may take emergency action against a mortgage loan broker if it appears that the mortgage loan broker has engaged in unsafe, unsound, and illegal practices that impose an imminent threat to the public interest.

18. Sufficient grounds exist for an emergency cease and desist if a mortgage loan broker has willfully failed to comply with the requirements of KRS Chapter 286.8 or if the mortgage loan broker has made misrepresentations of false statements, or concealed an essential material fact during the mortgage lending process; or has engaged in a course of business that has worked or tended to work a fraud or deceit upon any person. *See* KRS 286.8-048(2)(a) and (d).

19. Respondent is operating as a mortgage loan broker as defined in KRS 286.8-010(19). Respondent has unlawfully transacted business in Kentucky by failing to obtain a license as a mortgage loan broker, pursuant to KRS 286.8-030(1)(a).

20. Respondent has charged illegal upfront fees to potential borrowers in violation of KRS 286.8-160.

21. Respondent has made misrepresentations of false statements, or concealed an essential material fact during the mortgage lending process; or has engaged in a course of business that has worked or tended to work a fraud or deceit upon any person. At least four (4) loans have closed on Kentucky properties, in which the loans were not funded and are unlikely to be funded. This is known as a “dry closing.”

22. Respondent is collecting an application fee that is greater than that allowed by KRS 286.8-120(6).

23. Based on the above Findings of Fact and Conclusions of Law, Respondent has engaged in unsafe, unsound, and illegal practices that impose an imminent threat to the public interest.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Commissioner hereby **ORDERS** as follows:

1. H.O.P.E., LLC shall immediately **CEASE AND DESIST** from engaging in the mortgage loan process in Kentucky;
2. H.O.P.E., LLC shall continue to secure the necessary funding for the four loans that were purportedly close, but were not funded on the initial closing date;
3. H.O.P.E. shall immediately place any fees previously collected from Kentucky consumers relative to any pending mortgage loan applications in a separate escrow account maintained at a federally insured bank until proper restitution can be ordered. Within five (5) days of the issuance of this Order, H.O.P.E. shall provide proof of same to Nicole Biddle, Director of Non-Depository Financial Institutions at [nicole.biddle@ky.gov](mailto:nicole.biddle@ky.gov); and

4. H.O.P.E. shall remain under an ongoing obligation to provide updated information to Director Biddle on a weekly basis on all loans relative to Kentucky consumers.

**APPEAL RIGHTS**

You are hereby notified that you have the right to request a hearing on this matter, in writing, within twenty (20) days of the entry of this Order. If requested, an administrative hearing shall be held pursuant to the provisions of KRS 13B.125 and KRS 286.8-048. Please submit any appeal to Shaun T. Orme, Assistant General Counsel, Kentucky Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

IT IS SO ORDERED on this the 9 day of JUNE, 2010



Charles A. Vice  
Commissioner  
Department of Financial Institutions  
1025 Capital Center Drive, Ste. 200  
Frankfort, KY 40601

**Certificate of Service**

I hereby certify that a copy of the foregoing **Order to Cease and Desist** was served by hand delivery on this the 11<sup>th</sup> day of June, 2010 to:

David "Jay" Godwin  
HOPE, LLC  
9900 Corporate Campus Drive, Ste. 3000  
Louisville, KY 40223



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Gayle Keltner  
Department of Financial Institutions  
1025 Capital Center Drive, Ste. 200  
Frankfort, KY 40601  
(502) 573-3390, ext. 282