

ENTERED
AUG 04 2014
COMMISSIONERS OFFICE

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2014-AH-0075

RECEIVED
JUL 30 2014
DFI/OGC

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

KIRKSTON MORTGAGE LENDING, LLC

RESPONDENT

AGREED ORDER

* * * * *

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 Loan Company and Mortgage Loan Broker Act (the “Act”).

2. Kirkston Mortgage Lending, LLC. (“Kirkston”) is a licensed Mortgage Company located at 501 N. Cross Point Blvd, Evansville, IN 47715. The Kentucky license number is #MC20054.

3. On April 7, 2014 DFI attempted to conduct an examination of Kirkston and in so doing found multiple violations of the Mortgage code.

4. Kirkston was unable to generate the information including files and loan lists necessary for the Department to fully conduct the examination in violation of KRS 286.8-090(j)

5. On February 14th 2014, ownership interest in Kirkston had changed hands without notice to the DFI in violation of KRS 286.8-075(2). DFI did not learn of these changes until after the examination attempt.

6. During the examination attempt DFI learned that Kirkston was in default on its lease and that two loans for the properties it owned are in forbearance causing a violation of KRS 286.8-090(b & e).

7. DFI possesses a range of administrative authority in addressing violations of the Act, including license revocation and other affirmative action as the Commissioner deems necessary. *See* KRS 286.8-046; 286.8-090.

8. In this case, DFI has determined that the appropriate response to the three violations listed above is a revocation of the license of Kirkston and that Kirkston Cease and Desist of all mortgage company activity, including Kirkston must take down the company website www.kirkston.com.

9. Kirkston is admitting to the violations of KRS 286.8 and is entering into this Agreed Order in lieu of proceeding with a formal hearing on the issues that comprise this matter.

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

- a. Kirkston agrees to the revocation of its Kentucky mortgage license
- b. Kirkston agrees to cease and desist from all mortgage company activity and agrees to take down its webpage www.kirkston.com.

11. Kirkston waives its right to demand a hearing at which it would be entitled to legal representation, to confront and cross examine witnesses, and to present evidence on its own behalf, or to otherwise appeal or set aside this Order.

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

13. In consideration of execution of this Agreed Order, Kirkston for itself, and for its successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, 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 Kirkston 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.

14. 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.

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

IT IS SO ORDERED on this the 1st day of August, 2014.



CHARLES A. VICE
COMMISSIONER

Consented to:

This 31st day of July, 2014.

This 23 day of July, 2014.

Tammy R. Scruggs
Tammy Scruggs, Director
Division of Non-Depository Institutions
Department of Financial Institutions

Cheryl Kirkland
Cheryl Kirkland
Authorized Representative
Kirkston Mortgage Lending, LLC.

ACKNOWLEDGEMENT

STATE OF Indiana)
COUNTY OF Vanderburgh)



On this the 23 day of July, 2014 before me Leah J. Brown, the undersigned, representative of Kirkston Mortgage Lending, LLC did personally appear and acknowledge herself to be the President/CEO of Kirkston Mortgage Lending, LLC. and that she, being authorized to do so, entered into and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand.

My Commission Expires: May 9, 2018

Leah J. Brown
Notary Public

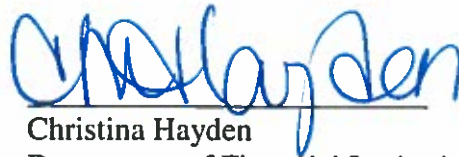
Certificate of Service

I, Christina Hayden, hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 4th day of August, 2014, by certified mail, return receipt requested, to the following:

Ed Clem
Neel Wilson & Clem
9 South Main Street
Henderson, Kentucky 42420

Via hand-delivery to:

Walker C. Cunningham
1025 Capital Center Drive
Suite 200
Frankfort, Kentucky 40601



Christina Hayden
Department of Financial Institutions
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