

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2012-AH-0025**

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**FINAL ORDER
TO CEASE AND DESIST AND
IMPOSING FINE AND COSTS**

MICHAEL OLSON

RESPONDENT

* * * * *

The Commissioner of the Department of Financial Institutions (“DFI”) hereby enters this Final Order, pursuant to KRS Chapter 286.8, directing Michael Olson (“Respondent”) to pay a Fine in the amount of one thousand dollars (\$1,000.00); to reimburse the DFI for its costs and expenses associated with the prosecution of this matter; and to immediately Cease and Desist from transacting business in Kentucky as an unregistered mortgage loan originator.

FINDINGS OF FACT

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 Licensing and Regulation Act (the “Act”).

2. Respondent was, at all times relevant herein, employed as a mortgage loan originator by CMCO Mortgage, LLC d/b/a Home Lending Source (“HLS”), a mortgage loan company licensed to conduct such business in Kentucky pursuant to the Act. Respondent’s Nationwide Mortgage Licensing System and Registry (“NMLS”) number is 102865.

3. However, Respondent is not and has not been registered in Kentucky as a mortgage loan originator pursuant to the Act and is not otherwise authorized to engage in such business in Kentucky. Moreover, Respondent's application for registration as a mortgage loan originator was denied by the DFI on November 12, 2009.

4. The DFI conducted a mortgage loan company exam of HLS on September 28, 2011. During this examination, the DFI discovered that Respondent conducted business as a mortgage loan originator while employed for HLS between March and September 2011.

5. The DFI has determined that Respondent's conduct constitutes a violation of KRS 286.8-030(1)(c) and KRS 286.8-255(1), which prohibit a natural person from transacting business, either directly or indirectly, as a mortgage loan originator or mortgage loan processor unless the individual is registered in accordance with KRS 286.8-255.

6. The DFI has determined that Respondent's conduct also constitutes a violation of KRS 286.8-090(2), which prohibits any person whose license, registration, or claim of exemption has been denied, suspended, revoked, or surrendered in lieu of revocation of suspension from participating in any business activity of a registrant or licensee and from engaging in any business activity on the premises where a licensee or registrant is conducting its business.

7. On February 7, 2012, the DFI sent a letter via first class mail to Respondent's last known address notifying him of his violations of KRS 286.8-030, KRS 286.8-255 and KRS 286.8-090. The letter asked Respondent to indicate in writing by February 27, 2012 whether he wished to settle this matter. Respondent delivered no response to the DFI.

8. On February 28, 2012, the DFI filed an Administrative Complaint (“Complaint”) against Respondent seeking imposition of a fine of not less than one thousand dollars (\$1,000.00) as well as any other appropriate relief to which the DFI may be entitled under the Act.

9. The Complaint was mailed via certified mail, return receipt requested, to Respondent’s last known address referenced herein, 87020 Bards Court, Middleburg Heights, Ohio 44130.

10. On March 14, 2012, the Complaint was returned to the DFI undelivered.

11. More than twenty (20) days have passed since the DFI received notice that the Complaint was returned undelivered and Respondent has failed to respond to the Complaint or request a hearing in this matter.

STATUTORY AUTHORITY

1. A “mortgage loan originator” is someone who for compensation or gain or the expectation of compensation or gain:

(a) Performs any one (1) or more of the following acts in the mortgage lending process:

1. Solicits, places, negotiates, or offers to make a mortgage loan;
2. Obtains personal and financial information from a borrower or prospective borrower;
3. Assists a borrower or prospective borrower with the preparation of a mortgage loan or related documents;
4. Explains, recommends, discusses, negotiates, or quotes rates, terms, and conditions of a mortgage loan with a borrower or prospective borrower, whether or not the borrower or prospective borrower makes or completes an application;
5. Explains any term or aspect of any disclosure or agreement given at or after the time a mortgage loan application is received; or
6. Takes a residential mortgage loan application; or

(b) Is an independent contractor engaging in the mortgage lending process as a mortgage loan processor;

See KRS 286.8-010(21).

2. Pursuant to KRS 286.8-030(1)(c), “It is unlawful for any natural person to transact business in Kentucky, either directly or indirectly, as a mortgage loan originator...unless otherwise exempted, if the mortgage loan originator...is not registered in accordance with KRS 286.8-255 or otherwise exempted.”

3. Pursuant to KRS 286.8-030(4), “Each solicited, attempted, or closed loan shall constitute a separate violation of this section.”

4. 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 office and has been issued a current certificate of registration by the office, complies with all applicable requirements of this subtitle, and maintains a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.”

5. Pursuant to KRS 286.8-090(2), “Any person whose license, registration, or claim of exemption has been denied, suspended, revoked, or surrendered in lieu of revocation of suspension under this section is prohibited from participating in any business activity of a registrant or licensee under this subtitle and from engaging in any business activity on the premises where a licensee or registrant under this subtitle is conducting its business.”

6. KRS 286.8-046(1) 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 one thousand dollars (\$1,000) nor more than twenty five thousand dollars (\$25,000) per violation.

7. Pursuant to KRS 286.8-044(2), "The executive director may file an administrative complaint against any person if it appears on grounds satisfactory to the executive director that a potential or actual violation of this subtitle has been committed and when the person may be subject to the penalties of KRS 286.8-046, 286.8-090, and 286.8-990. The executive director 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. If timely requested, an administrative hearing shall be held in accordance with the provisions of KRS Chapter 13B. If a written answer and request for hearing are not made within twenty (20) days of service or delivery of the complaint, the executive director shall enter a final order granting the relief requested in the complaint."

12. Pursuant to KRS 286.8-044(3), service by certified mail shall be complete upon the earlier of the following:

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

CONCLUSIONS

1. Respondent violated KRS 286.8-030(1)(c) and 286.8-255(1) by transacting business in Kentucky as a mortgage loan originator without a valid registration or exemption to so do. Therefore, Respondent is subject to a fine of one thousand dollars (\$1,000.00) for this violation.

2. Respondent also violated KRS 286.8-090(2) by participating in business activity on the premises where a licensee is conducting its business.

3. The Complaint was properly served upon Respondent via certified mail to his last known address in accordance with KRS 286.8-044(2) and 808 KAR 12:030.

4. Service of the Complaint upon Respondent was complete on March 14, 2012, pursuant to KRS 286.8-044(3)(c).

5. Respondent failed to respond to the Complaint by filing a written answer or requesting a hearing within twenty (20) days of service. Thus, Respondent's right to a hearing has been waived in this matter.

ORDER

THEREFORE, based upon the foregoing findings of fact, statutory authority, and conclusions, the Commissioner **HEREBY ORDERS** that:

1. Respondent Michael Olson shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00) for his violation of KRS 286.8-030, KRS 286.8-255, and KRS 286.8-090. The payment 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: Michael T. Davis, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601;

2. Respondent Michael Olson shall pay to and reimburse the DFI the additional sum of five hundred, ninety-three dollars and seventy-five cents (\$593.75), its costs, expenses, and/or attorney's fees associated with the prosecution of this matter as set forth in Exhibit A to this Order; and

3. Respondent Michael Olson shall **CEASE AND DESIST** from transacting business in Kentucky as a mortgage loan originator, and to further **CEASE AND**

DESIST from participating in any business activity of any kind at or upon any premises where a licensee or registrant under KRS Chapter 286.8 is conducting any part of its business, unless and until Respondent complies with all applicable provisions of 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, KRS 13B.120, and KRS 13B.050.

IT IS SO ORDERED on this the 5th day of April,
2012.



CHARLES A. VICE
COMMISSIONER

NOTICE OF APPEAL RIGHTS

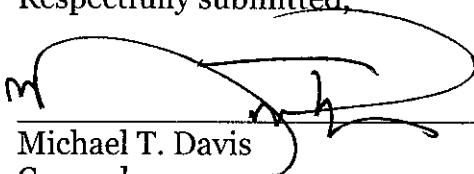
Pursuant to KRS 286.8-210, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you chose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within sixty (60) days after entry of this Final Order. A copy of any Appeal Petition must also be served on the Commissioner.

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 6th day of April, 2012 to:

Michael Olson
87020 Bards Court
Middleburg Heights, Ohio 44130

Respectfully submitted,



Michael T. Davis
Counsel
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
(502) 573-3390 Ext. 240
(502) 573-2183 (facsimile)

TIME SHEET

(COSTS ASSOCIATED WITH ADMINISTRATIVE ACTION)

NAME/TITLE: Michael T. Davis, Counsel

DATE: 4/4/2012

<u>Time/Hours (in .25 increments)</u>	<u>Rate/Hour</u> \$125	<u>Description of Work Completed</u>
1.00 hours		Review enforcement file, research alleged violations, compose demand letter.
0.50 hours		Monitor status of file, check service upon Respondent.
1.25 hours		Draft Administrative Complaint.
0.50 hours		Monitor status of file, verify service of Complaint upon Respondent.
1.50 hours		Draft Final Order.
TOTAL: 4.75 hours@ \$125	TOTAL \$593.75	

By signing below, I hereby certify that the information contained herein is true and accurate record of the time expended by me on this matter.

