



examination (*i.e.* during August 1, 2017 through March 31, 2022, the “Examination Period”), as DFI had requested.

5. Rather, DFI’s examiner discovered five loans among files provided by other mortgage lenders which had been omitted from Respondent’s initial provided loan list.

6. Respondent was provided an opportunity to supplement the provided loan list. The supplemental list still failed to include all loans found to have been brokered during the Examination Period.

7. Christian Dones, President and sole owner of Respondent, claimed to DFI’s examiner that some closed loan files were shredded and that he believed he had no copies of those loan files either in hard copy or electronically.

8. During the examination, Respondent’s website was found not to contain Respondent’s Nationwide Mortgage Licensing System (“NMLS”) number.

9. Beginning in the third quarter of 2017 and continuing through the end of the Examination Period, Respondent failed to file the required NMLS quarterly and annual Mortgage Call Reports within the required 45 days from the end of the calendar quarter.

10. Mortgage Call Reports that Respondent filed with NMLS were wholly inconsistent from the loan list that Respondent provided to DFI during the examination. To wit, the Mortgage Call Reports showed Respondent closed:

- Four residential loans in Kentucky in the last quarter of 2017,
- Six residential loans in Kentucky in 2018,

- Twelve residential loans in Kentucky in 2019,
- Six residential loans in Kentucky in 2020, and
- No residential loans in Kentucky in 2021.

By contrast, the loan list that Respondent provided to DFI during the examination showed that Respondent closed:

- No residential loans in Kentucky in 2017,
- No residential loans in Kentucky in 2018,
- Four residential loans in Kentucky in 2019,
- Ten residential loans in Kentucky in 2020, and
- Two residential loans in Kentucky in 2021.

11. DFI has settled with Respondent on five prior occasions for numerous other violations, including for Respondent's inability to provide DFI's examiners with complete and accurate loan lists, Respondent's origination of mortgage loans from an unlicensed branch, Respondent's employing unregistered individuals to originate loans in Kentucky, Respondent's using independent contractors to originate loans, and Respondent's general lack of institutional controls.

#### STATUTORY AUTHORITY

12. KRS 286.8-220(1) states,

No person shall make or cause to be made, in any document filed with the commissioner, a governmental agency, the Nationwide Multistate 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.

13. KRS 286.8-170 states, in pertinent part,
- (2) (a) Every mortgage loan company and mortgage loan broker shall keep at its principal office correct and complete records of its business transactions.
  - ...
  - (4) The affairs of every mortgage loan company, mortgage loan broker, and mortgage loan originator, and the records required to be maintained by KRS 286.8-160, shall be subject at any time or from time to time to such periodic, special, or other examinations by the commissioner or an examiner of the commissioner within or without this state and with or without notice to the person being examined, as the commissioner deems necessary or appropriate in the public interest. All records of the person being examined shall be subject to the commissioner's inspection.
  - ...
  - (7) The commissioner or the commissioner's examiners or designated representative shall have access to all records of a mortgage loan company, mortgage loan broker, and mortgage loan originator which relate to their business
14. KRS 286.8-160 states,
- (1) Every mortgage loan company and mortgage loan broker shall make and keep such accounts, correspondence, memoranda, papers, books, data, and other records used in the mortgage lending process:
    - (b) As the commissioner prescribes; or
    - (b) That are required by federal law.
  - (2) (a) Except as provided in paragraph (b) of this subsection, the records governed under this subtitle shall be preserved for such time as the commissioner may by regulation or order require, not to exceed a period of five (5) years after a mortgage loan application is completed, whether

approved or rejected, or on mortgage loans paid in full, whichever is longer.

15. 808 KAR 14:010 states, in pertinent part,

Section 2. Preservation Period for Records.

- (1) Unless a longer period is required by federal law or federal regulation, a Kentucky Revised Statute, or an administrative regulation, licensees shall maintain records in accordance with the Record Retention Schedule.

...

Section 3. Form of Records. All records required to be retained by licensees shall be:

- (1) Current and accurate;
- (2) Retained in a format capable of being transmitted or reproduced; and
- (3) Immediately accessible and retrievable for examination upon request by the commissioner or any person designated by the commissioner for examination, investigation, or other authorized purposes.

...

Section 6. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "The Record Retention Schedule" July 1, 2006[.]

16. The Record Retention Schedule incorporated by reference by 808 KAR 14:010 Section 6(1)(a), available electronically at <https://kfi.ky.gov/Documents/MortgageCompanyandMortgageBrokerRecordRetentionSchedule.pdf>, provides that a mortgage-broker licensee must keep all closed loan files for a minimum of five years after each account is closed.

17. Under KRS 286.8-010(31), “[u]nique identifier’ means a number or other identifier assigned by protocols established by the Nationwide Multistate Licensing System and Registry.”

18. The NMLS provides each entity with a record in the NMLS system a unique numeric integer identifier to comply with the Secure and Fair Enforcement for Mortgage Licensing Act (“SAFE Act”), 12 U.S.C. § 5101 *et seq.* See NMLS Unique Identification Number Specifications, available electronically at <https://mortgage.nationwidelicensingsystem.org/about/Documents/Unique%20ID%20in%20NMLS.pdf>.

19. KRS 286.8-030(5) states, in pertinent part,

The unique identifier shall also be displayed on solicitations or advertisements, including business cards or Web sites, of all persons holding themselves out as being able to originate mortgage loans in Kentucky, and any other document as established by rule, regulation, or order of the commissioner.

20. KRS 286.8-020(14) states,

Notwithstanding any provisions to the contrary set forth in this subtitle, every mortgage loan company and mortgage loan broker that employs or utilizes the direct services of a mortgage loan originator subject to the registration and regulatory requirements of KRS 286.8-255 shall complete and timely submit to the Nationwide Multistate Licensing System and Registry an annual report of condition, which shall be in such form and contain such information as the Nationwide Multistate Licensing System and Registry may require, along with any other information which may be required by the commissioner.

21. The SAFE Act, at 12 U.S.C. § 5104(e) requires “each mortgage licensee [to] submit to the Nationwide Mortgage Licensing System and Registry reports of

condition [*i.e.* Mortgage Call Reports], which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.”

22. The deadlines by which mortgage licensees are required to submit Mortgage Call Reports are published at <https://mortgage.nationwidelicencingsystem.org/slr/common/mcr/Pages/default.aspx>. Licensees must submit quarterly Residential Mortgage Loan Activity reports within 45 days after the end of each calendar quarter, and annual Financial Condition reports within 90 days of the licensee’s fiscal year end.

23. KRS 286.8-046(1) states,

The commissioner may levy a civil penalty against any person who violates any provision of or any administrative regulation promulgated under this subtitle or order issued by the commissioner under this subtitle. The civil penalty shall be not less than one thousand dollars (\$1,000) nor more than twenty-five thousand dollars (\$25,000) per violation, plus the state's costs and expenses for the examination, investigation, and prosecution of the matter, including reasonable attorney's fees and court costs.

24. KRS 286.8-090(1) states, in pertinent part,

The commissioner may suspend; revoke; place on probation; condition; refuse to issue or renew a license, registration, or exemption; or accept surrender of a license, registration, or exemption in lieu of revocation or suspension; or issue a cease and desist order if the commissioner finds that the person, applicant, licensee, or registrant:

(a) Does not meet, no longer meets, or has failed to comply with the requirements of this subtitle;

(b) Is unfit through lack of financial responsibility or experience to conduct the business of a mortgage

loan company or mortgage loan broker, as the case may be; [or]

(c) Does not conduct his business in accordance with the law or the method of business includes or would include activities which are illegal where performed[.]

### **FINDINGS OF FACT**

25. The Commissioner hereby finds that Respondent violated KRS 286.8-170(2)(a), KRS 286.8-160, and 808 KAR 14:010 in failing to retain complete and accurate records of all mortgage loans closed in Kentucky for five years, and in destroying such files before the five-year retention period was complete.

26. The Commissioner hereby finds that Respondent violated KRS 286.8-170 by providing loan lists to the DFI examiner which failed to disclose all Kentucky loans closed during the Examination Period.

27. The Commissioner hereby finds that Respondent violated KRS 286.8-030(5) by failing to display its NMLS identifier on its web site.

28. The Commissioner hereby finds that Respondent violated KRS 286.8-220(1) and KRS 286.8-020(14) by filing with the NMLS multiple materially incorrect and untimely Mortgage Call Reports.

### **AGREEMENT AND ORDER**

29. To resolve this matter without litigation or other adversarial proceedings, DFI and Respondent agree to compromise and settle all claims arising from the above-referenced factual background in accordance with the terms set forth herein.



30. In the interest of economically and efficiently resolving the violations described herein, DFI and Respondent agree as follows:

a. Respondent agrees to voluntarily surrender its mortgage-broker license and to cease doing business as a mortgage-loan broker in Kentucky.

b. Respondent agrees to pay a civil penalty assessment in the amount of **two-thousand, five-hundred dollars (\$2,500)** for the violations described herein, which shall be immediately payable upon entry of this order;

c. All payments shall be made electronically through the NMLS system; and

d. Respondent shall cease and desist from any future violations of the Act.

31. Respondent 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 Agreed Order;

32. Respondent 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;

33. In consideration of execution of this Agreed Order, Respondent hereby releases and forever discharges the Commonwealth of Kentucky, The Department of Financial Institutions, 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 Respondent 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;

34. By signing below, Respondent acknowledges it has read the foregoing Agreed Order and knows and fully understands its contents; and

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

**SO ORDERED** on this the 27th day of January, 2023.

*Marni Rock Gibson*

JUSTIN M. BURSE  
ACTING COMMISSIONER  
DEPARTMENT OF FINANCIAL INSTITUTIONS

Acting Deputy Commissioner  
Signing on behalf of Commissioner



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Agreed Order was sent on this the 30 day of January, 2023, by certified mail, return receipt requested, to:

Genesis One Enterprises, Inc.  
314 Hunter Station Rd.  
Suite 1  
Sellersburg, IN 47172

And via hand-delivery to:

Michael Barnett  
Staff Attorney  
Department of Financial Institutions  
500 Mero St.  
2SW19  
Frankfort, KY 40601

Kentucky Department of Financial Institutions

Name: Allison Reed by Victoria Ward

Title: Executive Staff Advisor