



COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
ADMINISTRATIVE AGENCY CASE NO. 2022-AH-0016

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

NDF1, LLC

RESPONDENT

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AGREED ORDER

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STATEMENT OF FACTS

1. The Department of Financial Institutions ("DFI") is responsible for regulating and licensing entities and certain individuals engaged in the business of mortgage brokering, origination, and processing in accordance with the provisions set forth in Kentucky Revised Statutes (KRS) Chapter 286.8 ("The Act").

2. NDF1, LLC ("Respondent") is a mortgage loan company whose principal office is located at 2 N Tamiami Trail, Suite 710, Sarasota, Florida, 32236, with License Number MC730947 and NMLS number 1910416.

3. Respondent was originally licensed by DFI on October 21, 2020.

4. During an examination conducted on August 2, 2021, it was found that Respondent had acquired servicing rights on the following five Kentucky loans prior to obtaining an approved license:

a. Loan number 5826000151 acquired on October 1, 2020;

b. Loan number 5683002366 acquired on October 1, 2019;

- c. Loan number 5826000089 acquired on March 1, 2020;
- d. Loan number 5683002480 acquired on October 1, 2019; and
- e. Loan number 9901277645 acquired on July 8, 2020.

5. During the August 2, 2021, examination it was also discovered that Respondent failed to submit and attest to reports of condition in the Nationwide Mortgage Licensing System (NMLS), including the fourth quarter standard Residential Mortgage Loan Activity component of the Mortgage Call report that was due on February 15, 2021, and the 2020 Annual Financial Condition Report. Both reports were past due at the time of exam.

#### STATUTORY AUTHORITY

6. KRS 286.8-030(1)(a) states in pertinent part, "It is 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..."

7. KRS 286.8-220(2) states, in part, "It shall be unlawful for any person, in connection with a transaction involving the mortgage lending process, or in connection with the operation of a mortgage loan business or the management or servicing of mortgage loans, directly or indirectly:

(h) To fail to make disclosures as required by this subtitle or any other applicable state or federal law, including regulations thereunder; or

(i) To fail to comply with state or federal laws, including the rules and regulations thereunder, that are applicable to transacting business in Kentucky."

8. The S.A.F.E. Mortgage Licensing Act, as implemented in part by 12 USC § 1008.111(f), states, in part, "The supervisory authority must require a loan originator to ensure that all residential mortgage loans that close as a result of the loan originator engaging in activities described in § 1008.103(b)(1) are included in reports of condition submitted to the NMLSR. Such reports of condition shall be in such form, shall contain such information, and shall be submitted with such frequency and by such dates as the NMLSR may reasonably require."

#### VIOLATIONS

9. Respondent violated KRS 286.8-030(1)(a) when it obtained servicing rights on Kentucky properties prior to obtaining an approved license.

10. Respondent violated KRS 286.8-220(2) because it failed to comply with federal law by failing to timely submit and attest required reports of condition in the NMLS.

#### AGREEMENT AND ORDER

11. 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.

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

a. Respondent agrees to pay a civil penalty assessment in the amount of Three Thousand Five Hundred Dollars (\$3,500) for the violations described herein, which shall be payable upon acceptance by the Respondent of this order;

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

c. Respondent shall show proof of filing of all outstanding federally required reports;

d. Respondent shall devote the time and resources necessary to ensure continual and full compliance with all statutory requirements set forth in KRS Chapter 286.8 and related regulation;

e. Respondent shall cease and desist from any future violations of the Kentucky Financial Services Code;

f. Respondent waives their right to demand a hearing at which they would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on their own behalf, or to otherwise appeal or set aside this Order;

g. 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;

h. 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;

i. By signing below, Respondent acknowledges they have read the foregoing Agreed Order and knows and fully understands its contents; and

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

22nd December, 2022  
SO ORDERED on this the 10 day of June, 2022.

*Marni Rock Gibson*

Signed on behalf of Justin Burse, Commissioner

~~CHARLES A. VICE~~  
~~COMMISSIONER~~

**Consented to:**

This 22nd day of December, 2022.

Jeff Jacob

Jeff Jacob, Director  
Division of Non-Depository Institutions  
Department of Financial Institutions

**AND**

On behalf of NDF1, LLC

This 10 day of June, 2022.

[Signature]

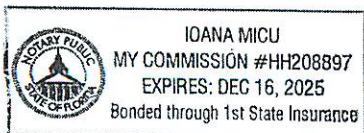
Authorized Representative. NDF1, LLC  
NMLS #1405046

**ACKNOWLEDGEMENT**

STATE OF FLORIDA )  
 )  
COUNTY OF SARASOTA )

On this the 10<sup>th</sup> day of June, 2022, the undersigned did personally appear before me and acknowledged in my presence that, being authorized to do so, they did enter into and execute the foregoing instrument, on behalf of NDF1, LLC for the purposes therein contained.

My Commission Expires: 12/16/2025



[Signature]  
Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 28 day of December, 2022, by certified mail, return receipt requested, to:

Mr. Martin Saenz  
2 N Tamiami Trail, Suite 710  
Sarasota, Florida, 32236

Via hand-delivery to:

Elizabeth Borders  
Staff Attorney  
Department of Financial Institutions  
500 Mero Street 2SW19  
Frankfort, Kentucky 40601

Kentucky Department of Financial Institutions

Name: Allison Reed by Victoria Ward

Title: Executive Staff Advisor