

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2010-AH-046

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**FINAL ORDER**

PETER BURGELIS

RESPONDENT

\* \* \* \* \*

This matter is before the Commissioner of the Department of Financial Institutions (“DFI”), pursuant to KRS 286.8-044. The Commissioner hereby enters this **Final Order** directing Peter Burgelis (“Respondent”) to pay a **Fine** in the amount of \$1,000, pursuant to KRS Chapter 286.8.

**FINDINGS OF FACTS**

1. DFI is responsible for regulating and licensing mortgage loan originators in accordance with the provisions of KRS Chapter 286.8. No person shall transact business in Kentucky as a mortgage loan originator, unless that person is registered with DFI and complies with all the applicable requirements of KRS Chapter 286.8. *See* KRS 286.8-255(1); *See Also* KRS 286.8-030(1)(c).
2. As the result of an investigation, it was discovered that the Respondent acted as an unregistered mortgage loan originator for Homequest Mortgage Network, LLC.
3. By letter dated February 10, 2010, DFI notified the Respondent of the alleged violation of KRS 286.8-030 and KRS 286.8-255. The letter was sent certified mail, return

receipt requested to the Respondent's last known address. The letter was signed for on February 13, 2010.

4. The letter asked the Respondent to indicate in writing by March 3, 2010 whether he wished to settle this matter. The Respondent did not respond to the February 10, 2010 letter.

5. A second letter was sent via first class mail on April 5, 2010. That letter asked the Respondent to notify DFI in writing by April 19, 2010 if he wished to settle this matter in lieu of an administrative proceeding. On April 19, 2010, the Respondent replied via fax indicating that he did not wish to settle this matter. Respondent listed his address as 1326 N. 68<sup>th</sup> Street, Wauwatosa, WI 53213.

6. On May 19, 2010 DFI filed an Administrative Complaint seeking imposition of a \$1,000 fine against Respondent. The Administrative Complaint was sent via certified mail, return receipt requested to 1326 N. 68<sup>th</sup> Street, Wauwatosa, WI 53213. The Administrative Complaint explained that the Respondent must file an answer to the Complaint, including a request for hearing, within twenty (20) days of service. The Administrative Complaint also explained that the if a request for hearing was not received within 20 days, DFI would seek a Final Order from the Commissioner granting the relief requested in the Complaint.

7. Based on the investigation, DFI asserted in the Administrative Complaint the following violations of KRS Chapter 286.8 by the Respondent:

<u>Unregistered Activity</u>	<u>Statute Violated</u>	<u>Description</u>
Unregistered loan originator	KRS 286.8-030(1)(c) and KRS 286.8-255(1)	In February, 2009 Respondent acted as a loan originator for Homequest Mortgage Network, LLC on a loan for borrowers Karl and Mary Dial.

8. The Respondent signed the certified mail, return receipt for the Administrative Complaint on May 25, 2010.

9. More than twenty (20) days passed and the Respondent did not timely request an administrative hearing. However, DFI received a request for hearing from the Respondent on July 1, 2010.

### **STATUTORY AUTHORITY<sup>1</sup>**

10. A “mortgage loan originator” is someone who:

a) Provides services to one (1) and not more than one (1) mortgage loan company or mortgage loan broker;

(b) Is subject to the supervision and control of that mortgage loan company or mortgage loan broker; and

(c) In exchange for compensation by that mortgage loan company or mortgage loan broker, performs any one (1) or more of the following acts in the mortgage lending process:

1. Solicits, places, negotiates, originates, or offers to make a mortgage loan for a mortgage loan company or mortgage loan broker;

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, 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; or

5. Explains any term or aspect of any disclosure or agreement given at or after the time a mortgage loan application is received;

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<sup>1</sup> The statutory references are the provisions of KRS Chapter 286.8 enacted at the time of the alleged violation.

See KRS 286.8-010(9).

11. KRS 286.8-030(1)(c) states, "It is unlawful for any mortgage loan originator or mortgage loan processor, unless otherwise exempted, to originate mortgage loans or otherwise participate in the mortgage lending process in Kentucky if the mortgage loan originator or mortgage loan processor is not registered in accordance with KRS 286.8-255."

12. Pursuant to KRS 286.8-255(1), "No mortgage loan originator or mortgage loan processor shall originate or process mortgage loans on residential real property in Kentucky unless such mortgage loan originator or mortgage loan processor is registered with the office and has been issued a certificate of registration by the office."

13. 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.

14. KRS 286.8-044(2) states in pertinent part, "The executive director (now the Commissioner) 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." *Emphasis added.*

15. KRS 286.8-044(3) explains that service by certified mail is complete upon the earlier of the following:

- (a) The date on which the person receives the mail;
- (b) The date on which the agency receives the return receipt; or

(c) The date on which the agency receives notice that the mail has been returned undelivered.

### CONCLUSIONS OF LAW

16. The Respondent has violated KRS 286.8-030(1)(c) and KRS 286.8-255(1) by acting as an unregistered loan originator. Respondent is subject to a fine of one thousand dollars (\$1,000).

17. The Respondent was properly served the Complaint pursuant to KRS 286.8-044(2) by serving the Respondent via certified mail at the last known address of the Respondent. Service by certified mail is complete pursuant to KRS 286.8-044(3).

18. The Respondent received the Administrative Complaint on May 25, 2010 when he signed for the certified mail. Respondent was required to file an Answer and request for hearing by June 14, 2010. Respondent did not file an Answer and request a hearing until July 1, 2010, some thirty-seven (37) days after he received the Administrative Complaint.

19. Respondent failed to timely respond to the Administrative Complaint or request a hearing within twenty (20) days of service. Thus, the Respondent's has not perfected his appeal and his right to a hearing is waived in this matter.

### ORDER

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

Peter Burgelis shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00) for violation of KRS 286.8-030(1)(c) and KRS 286.8-255(1). The check 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: Shaun T. Orme, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

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.

**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.

**IT IS SO ORDERED** on this the 7<sup>th</sup> day of July, 2010.

*CA Vice*  
For CA Vice Deputy Commissioner  
CHARLES A. VICE  
COMMISSIONER

**Certificate of Service**

I hereby certify that a copy of the foregoing **Final Order** was sent by certified mail to, return receipt requested, on this the 12<sup>th</sup> day of July, 2010 to:

Peter Burgelis  
1326 N 68<sup>th</sup> Street  
Wauwatosa, WI 53213



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