

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2011-AH-0028

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

SHERRY ALVAREZ

RESPONDENT

**FINAL ORDER DENYING APPLICATION FOR
MORTGAGE LOAN ORIGINATOR REGISTRATION**

* * * * *

The Commissioner of the Department of Financial Institutions (“DFI”) hereby enters this **Final Order**, pursuant to KRS Chapter 286.8, denying the application for mortgage loan originator registration of Sherry Alvarez (“Respondent”):

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 has applied for registration as a mortgage loan originator, pursuant to KRS 286.8-255. Her Nationwide Mortgage Licensing System and Registry number is 213508.

3. During the course of reviewing Respondent’s application information and criminal history, DFI determined that Respondent had numerous felony indictments and/or convictions, and at least one misdemeanor charge involving fraud.

4. On December 13, 2010, DFI mailed a letter to Respondent requesting that she provide additional information about and an explanation of her criminal record

within ten (10) days thereafter, including copies of any final disposition, guilty plea, judgment, conviction or dismissal of each such charge, and warning that failure to respond will result in the denial of his application for registration.

5. On February 8, 2011, DFI mailed a letter to Respondent via certified mail to her last known address, the address on her application, 1956 Ridgemont Drive, Clearwater, Florida 33763. This letter advised Respondent that her criminal record may prevent her eligibility for registration as a mortgage loan originator, and offered Respondent an additional twenty (20) days within which to respond or voluntarily withdraw her application for registration.

6. DFI received the certified return receipt of its February 8, 2011 letter on February 16, 2011 confirming service upon Respondent. However, DFI received no response from Respondent.

7. On March 14, 2011, DFI entered an Order Denying Application for Mortgage Loan Originator Registration ("Order") against Respondent. The Order was mailed via certified mail, return receipt requested, to Respondent's last known address.

8. On March 24, 2011, DFI received a return receipt confirming that the Order mailed to Respondent's last known address was delivered to and signed for by or on behalf of Respondent.

9. More than twenty (20) days have passed since DFI received notice that the Order was delivered to Respondent's last known address.

10. DFI has not received a written request from Respondent for a hearing in this matter.

STATUTORY AUTHORITY

1. No person shall transact business in Kentucky as a mortgage loan originator or a mortgage loan processor unless that person is registered with DFI, has been issued a current certificate of registration by 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. Pursuant to KRS 286.8-255(9)(b), “No mortgage loan originator or mortgage loan processor shall be granted or shall be entitled to maintain a certificate of registration unless he or she satisfies the following minimum standards for registration: ...The applicant has not been convicted of, pled guilty to, or pled nolo contendere to a felony in any domestic, foreign, or military court...[d]uring the seven (7) year period preceding the date of the application for registration or renewal of registration; or...[a]t any time preceding such date of application for registration or renewal of registration, if such felony involved an act of fraud or dishonesty, a breach of trust, or money laundering.”

3. Pursuant to 808 KAR 12:021(7), “If any applicant fails to provide or respond to a request for additional information within ninety (90) days of submission to the department, the application shall be abandoned.”

4. Pursuant to KRS 286.8-090(1), “The executive director may...refuse to issue or renew a license, registration or exemption...if the executive director 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; ...

(k) Has been convicted of any misdemeanor of which an essential element is fraud, breach of trust, or dishonesty,

or any felony, or has pending against him any felony charge; ...[or]

(p) Has abandoned an application by failing to provide the executive director any information required under this subtitle, or requested by the executive director, to complete an application.

5. Pursuant to KRS 286.8-044(1), "Notice of entry of any order of suspension or denial of a license, registration, or claim of exemption to any applicant, registrant, or licensee shall be given in writing and served personally or sent by certified mail to the last known address of the person affected. The affected person, upon timely written request to the executive director, shall be entitled to a hearing in accordance with the provisions of KRS Chapter 13B; but if no written request is received within twenty (20) days of service of the notice, the executive director shall enter a final order suspending or denying the license or registration."

6. 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;

(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

1. Respondent has failed to demonstrate that she has not been convicted of, pled guilty to, or pled nolo contendere to a felony in any domestic, foreign, or military court...[d]uring the seven (7) year period preceding the date of the application for registration or renewal of registration; or...[a]t any time preceding such date of

application for registration or renewal of registration, if such felony involved an act of fraud or dishonesty, a breach of trust, or money laundering.

2. In addition, Respondent has abandoned her application for registration by failing to provide or respond to a request for additional information requested on the Commissioner's behalf under the Act in order to complete said application.

3. The Order Denying Application for Mortgage Loan Originator Registration was properly served upon Respondent via certified mail to her 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 by no later than March 24, 2011, pursuant to KRS 286.8-044(3)(a-c).

5. Respondent failed to appeal the Order Denying Application for Mortgage Loan Originator Registration by filing a written request for a hearing. Thus, Respondent's right to a hearing has been waived in this matter.

ORDER

Based on the findings of fact, statutory authority, and conclusions set forth above, the Commissioner **ORDERS** that the application of Respondent Sherry Alvarez for a certificate of registration as a mortgage loan originator is **DENIED**.

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 19th day of April, 2011.



CHARLES A. VICE
COMMISSIONER

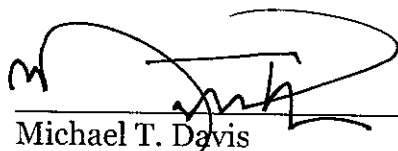
NOTICE OF APPEAL RIGHTS

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 Denying Application for Mortgage Loan Originator Registration** was sent by certified mail, return receipt requested, and by first class mail, on this the 20th day of April, 2011 to:

Sherry Alvarez
1956 Ridgemont Drive
Clearwater, Florida 33763



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