

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2011-AH-0177



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

AGREED ORDER

TIMOTHY PATRICK O'BRIEN

RESPONDENT

* * * * *

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. Timothy Patrick O'Brien ("Respondent") is and was, at all relevant times herein, employed as a mortgage loan originator by Midwest Mortgage Source, Inc., d/b/a Zipfel Mortgage Group ("Zipfel"), a mortgage loan broker licensed to conduct such business in Kentucky pursuant to the Act. Respondent's Nationwide Mortgage Licensing System and Registry ("NMLS") number is 246789.

3. Respondent has been registered in Kentucky as a mortgage loan originator since February 2, 2011. However, Respondent was not registered or otherwise authorized to engage in such business in Kentucky prior to that date.

4. The DFI conducted a mortgage loan broker exam of Zipfel on June 14, 2011. During this examination, the DFI discovered that in August 2010, Respondent took the residential mortgage loan application of a borrower in connection with the purchase of a Kentucky property. This activity 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.

5. The DFI possesses a range of administrative authority in addressing violations of the Act, including license revocation or denial, and/or the imposition of fines in an amount up to \$25,000 per violation. *See* KRS 286.8-046; 286.8-090.

6. In this case, the DFI has assessed a fine against Respondent in the amount of one thousand dollars (\$1,000.00) for acting as an unregistered mortgage loan originator in Kentucky in violation of KRS 286.8-030(1)(c) and KRS 286.8-255(1).

7. In the interest of economically and efficiently resolving the violation(s) described herein, the DFI and Respondent agree as follows:

- a. Respondent agrees to a fine assessment in the amount of one thousand dollars (\$1,000.00) for the alleged violation(s) described herein;
- b. Respondent agrees to and shall pay the total fine assessed herein in a single installment of one thousand dollars (\$1,000.00), which shall be due on the date Respondent executes the Agreed Order and returns it to the DFI, but in no event later than November 15, 2011. This 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; and
- c. Respondent shall devote the time and resources necessary to ensure continual and full compliance with all statutory requirements set

forth in the Act and the regulations set forth in 808 KAR Chapter

12.

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

8. Respondent consents to and acknowledges the jurisdiction of the DFI over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

9. In consideration of execution of this Agreed Order, Respondent for himself, and for his successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the DFI, 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.

10. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

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

IT IS SO ORDERED on this the 15th day of November, 2011.



CHARLES A. VICE
COMMISSIONER

Consented to:

This 15th day of November, 2011.

This 9th day of November, 2011.

Nicole Biddle

Nicole Biddle, Director
Division of Non-Depository Institutions
Department of Financial Institutions

Timothy Patrick O'Brien

Timothy Patrick O'Brien

ACKNOWLEDGEMENT

STATE OF OHIO)
)
COUNTY OF HAMILTON)

On this the 9th day of November, 2011, before me Nancy Neihisel, the undersigned, Timothy Patrick O'Brien, did personally appear and entered into and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand.

My Commission Expires: 10.20.2015

Nancy Neihisel
Notary Public



Nancy Neihisel
Notary Public, State of Ohio
My Commission Expires 10-20-2015

Certificate of Service

I, Michael T. Davis, hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 16th day of November, 2011, by certified mail, to the following:

Timothy Patrick O'Brien
3417 Golden Avenue
Cincinnati, Ohio 45226

A handwritten signature in black ink, appearing to read 'M. T. Davis', is written over a horizontal line.

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