

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2010-AH-83

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

FINAL ORDER

UNITED MORTGAGE GROUP, LLC

RESPONDENT

* * * * *

The Commissioner of the Department of Financial Institutions (“DFI”) hereby enters this **Final Order** directing United Mortgage Group, LLC (“Respondent” or “UMG”) to pay a **Fine** in the amount of three thousand five hundred dollars (\$3,500) and to immediately **Cease and Desist** from transacting business in Kentucky with unregistered mortgage loan originators, pursuant to KRS Chapter 286.8.

STATEMENT OF FACTS

1. The DFI is responsible for regulating and licensing mortgage loan originators and mortgage loan processors doing business in Kentucky in accordance with the provisions of KRS Chapter 286.8, the Mortgage Loan Company and Mortgage Loan Broker Act (the “Act”).
2. UMG was authorized to do business in Kentucky as a licensed mortgage loan company pursuant to the Act, with its principal office located at 10020 NW Prairie View Road.
3. The DFI discovered that UMG utilized one (1) unregistered loan officer to originate mortgage loans during the 2008 calendar year. In addition, during this same time

period, UMG utilized one (1) unregistered processor in violation of KRS §286.8-030. Although UMG operated under a Housing and Urban Development (“HUD”) exemption during some of the relevant period, it was still required to register its loan officers and processors under the Act.

4. It is unlawful to utilize mortgage loan originators or mortgage loan processors who have not been properly registered with the DFI.

5. By letter dated June 22, 2009, DFI notified Respondent of the violation of KRS 286.8-030. The letter was sent certified mail, return receipt requested, to 10020 NW Prairie View Road, Kansas City, MO, 64153. The Respondent did not respond concerning the letter.

6. On June 15, 2010, DFI filed an Administrative Complaint (“Complaint”) against Respondent seeking imposition of a \$3,500 fine against Respondent; reimbursement for any and all costs and expenses associated with the examination, investigation, and prosecution of this matter; and that Respondent be ordered to cease and desist from transacting business in Kentucky with unregistered mortgage loan originators and processors, until such time as any unregistered mortgage loan originator is properly registered pursuant to KRS Chapter 286.8.

7. The Complaint was sent to Respondent via certified mail, return receipt requested to 10020 NW Prairie View Road, Kansas City, MO, 64153, the address listed on file with the DFI as Respondent’s mailing address. The Complaint sent to this address was signed for by the Respondent on June 18, 2010.

8. More than twenty (20) days has passed and the Respondent has failed to respond to the Complaint or request a hearing in this matter.

STATUTORY AUTHORITY

9. Pursuant to KRS 286.8-010(12), the “mortgage lending process” means:

the process through which a person seeks or obtains a mortgage loan, including the solicitation, application, origination, negotiation of terms, underwriting, signing, closing, and funding of a mortgage loan and the services provided incident to a mortgage loan, including the appraisal of the residential real property. Documents involved in the mortgage lending process include but are not limited to:

(a) Uniform residential loan applications or other loan applications;

(b) Appraisal reports;

(c) Settlement statement;

(d) Supporting personal documentation for loan applications, including:

1. Form W-2 or other earnings or income statements;

2. Verifications of rent, income, and employment;

3. Bank statements;

4. Tax returns; and

5. Payroll stubs;

(e) Any required mortgage-related disclosures; and

(f) Any other document required as a part of, or necessary to, the mortgage lending process;

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.

See KRS 286.8-010(9).

6. A “mortgage loan processor” is “a natural person who performs only clerical or support duties at the direction of and subject to the supervision and instruction of a mortgage loan originator.”

7. 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. The office shall maintain a database of all mortgage loan originators and mortgage loan processors originating or processing mortgage loans on residential real property in Kentucky. The office shall issue a certificate of registration to all registered mortgage loan originators and mortgage loan processors.”

8. KRS 286.8-030(1)(d) makes it unlawful for any mortgage loan company or mortgage loan broker to use an unregistered mortgage loan originator or mortgage loan processor.

9. Pursuant to KRS 286.8-090(1)(a), (m) and (v), the Commissioner may issue a cease and desist order if the commissioner finds that a person has failed to comply with the requirements of

KRS Chapter 286.8, the person has employed an unregistered loan officer, or the person has violated any provision of KRS Chapter 286.8.

10. KRS 286.8-046 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. In addition, the commissioner may order reimbursement of the costs and expenses for the examination, investigation, and prosecution of this matter, including reasonable attorney's fees and court costs.

11. 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.*

12. Finally, 808 KAR 12:030 Section 2 states:

(1) The office attorney may file a written complaint against a person if:

(a) The attorney believes that the person is violating or has violated a provision of KRS Chapter 286.8; and

(b) The executive director has not entered an order against the person based on the same conduct or allegation.

(2) The complaint shall:

(a) Describe the allegation made against the person;

(b) Request the executive director to enter an appropriate order; and

(c) Comply with the requirements for notice of an administrative hearing established by KRS 13B.050(3)(c) through (h).

CONCLUSIONS

1. Respondent violated KRS 286.8-030 by employing or using an unregistered loan originator and process to originate mortgage loans. Respondent is subject to a fine of three thousand five hundred dollars (\$3,500.00) for this violation.

2. The Respondent was properly served the Complaint pursuant to KRS 286.8-044(2) and 808 KAR 12:030 by serving the Respondent by certified mail at the last known address of the Respondent. DFI took the additional step of serving the Respondent by sending the Administrative Complaint to the Respondent's registered agent.

3. Respondent failed to respond to the Complaint or request a hearing within twenty (20) days of service. Thus, the Respondent's right to a hearing was waived in this matter.

ORDER

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

1. United Mortgage Group, LLC. pay a civil penalty in the amount of three thousand five hundred dollars (\$3,500.00) for violations of the Act;

2. United Mortgage Group, LLC **CEASE AND DESIST** from transacting business in Kentucky with unregistered mortgage loan originators and processors, until such time as any unregistered mortgage loan originator and processor is properly registered pursuant to Chapter 286.8.

3. 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 16th day of July, 2010.



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 was sent by certified mail to, return receipt requested, on this the 14 day of July, 2010 to:

Kelly Marks
United Mortgage Group, LLC
10020 NW Prairie View Road
Kansas City, MO 64153



Christine Lewis
Legal Counsel