

**COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2012-AH-023**

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

VS.

VIP MORTGAGE, INC.

RESPONDENT

**FINAL ORDER**

\* \* \* \* \*

The Commissioner of the Department of Financial Institutions (“DFI”) hereby enters this **Final Order** directing VIP Mortgage, Inc. (“Respondent” or “VIP” or “Respondent”) to pay a fine of Two Thousand Dollars (\$2,000.00), for transacting residential mortgage loan business in Kentucky with unregistered mortgage loan processors in violation of KRS 286.8-030(1)(d) and for failing to notify DFI upon changing its address or ceasing operations in violation of KRS 286.8-032(8)(b).

**STATEMENT OF FACTS**

1. VIP Mortgage, Inc. (“VIP”) is a company in the residential mortgage business and whose principal office is located at 4770 Duke Drive, Suite 301, Mason, OH 45040. Its listed agent for service of process in Kentucky with the Nationwide Licensing System and Registry (“NMLS”) is Chris Lykins, VIP Mortgage, Inc., 441 Sixth Ave., Suite 101, Dayton, Kentucky 41074.
2. The Department of Financial Institutions (the “Department”) is the agency in Kentucky charged with the enforcement of KRS Chapter 286.8, the Mortgage Loan Companies and Brokers Act (the “Act”).

3. In November, 2010, an examination was conducted into the condition, workings and affairs of VIP's offices in Dayton, Kentucky in order to determine whether: (1) it was in compliance with applicable laws and regulations; (2) its practices and policies had an adverse impact on prospective borrowers; and (3) it was being operated efficiently, fairly, and in the public interest.
4. It was discovered in the course of that examination that VIP violated Chapter 286.8 of the Kentucky Revised Statutes by employing or using two unregistered loan processors in connection with residential real estate mortgage loans in Kentucky. In addition, the company was unable to provide a closed loan file to the Department's examiner as it was required to do in accordance with KRS 286.8-170.
5. Pursuant to KRS 286.8-030(1)(d), it is unlawful for any mortgage loan company or mortgage loan broker to employ or use, either with or without compensation, a mortgage loan originator or a mortgage loan processor if the mortgage loan originator or mortgage loan processor is not registered in accordance with KRS 286.8-255.
6. Subsequent to the above referenced examination, Respondent either ceased operations or changed its place of business without notifying the Commissioner of the DFI in violation of KRS 286.8-032(8)(b). After initially having numerous communications, both in writing and through telephone conversations, with Respondent's representatives regarding the 2010 examination, the DFI's findings and a mutually agreeable resolution to this matter, a proposed agreed order was sent to Respondent for review and execution. Although Respondent had orally consented to the terms of the proposed order, which included a reduced fine from that initially proposed by the DFI, the DFI never received a reply back from Respondent. The DFI attempted to contact Respondent thereafter on

several occasions, both in writing and by telephone, but again never received any response. In addition, the DFI's letters (sent both to Respondent's registered agent and to its home office) were returned by the postmaster as "NOT DELIVERABLE AS ADDRESSED – UNABLE TO FORWARD." All attempts to contact Respondent's Kentucky agent, Chris Lykins, by DFI, the most recent being by certified mail on February 16, 2012, were unsuccessful. That most recent mailing was returned with the postal notation "RETURN TO SENDER NOT DELIVERABLE AS ADDRESSED UNABLE TO FORWARD." Respondent never informed DFI of any change in address; change in agent, or of its cessation of business operations. A search of Respondent on NMLS shows that Respondent was formerly licensed in two states, Kentucky and Ohio, and that its licenses in both states have expired.

7. On February 27, 2012, DFI filed an Administrative Complaint ("Complaint") against Respondent seeking an order to impose a fine or civil penalty for the statutory violations referenced above.
8. The Complaint was sent to Respondent via certified mail, return receipt requested to 4770 Duke Drive, Suite 301, Mason, Ohio 40540 (the address listed on file with the DFI and NMLS and which is Respondent's last known mailing address), and to 3320 Creek Road, Sharonville, Ohio 45241, which is an alternative mailing address listed by Respondent with the NMLS. The certified mailing sent to the Mason, Ohio address was returned with the postal notation "RETURN TO SENDER: VIP MORTGAGE INC MOVED LEFT NO ADDRESS UNABLE TO FORWARD." The mailing sent to the Sharonville, Ohio address was also returned with the postal notation "RETURN TO SENDER ATTEMPTED – NOT KNOWN UNABLE TO FORWARD."

9. 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**

1. Pursuant to KRS 286.8-046, the Commissioner may levy a civil penalty or fine against any person who violates any provision of or administrative regulation promulgated under 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.
2. Pursuant to KRS 286.8-030(1)(d), it is unlawful for any mortgage loan company or mortgage loan broker to employ or use a mortgage loan originator or a mortgage loan processor if the mortgage loan originator or mortgage loan processor is not registered in accordance with KRS 286.8-255 or otherwise exempted.
3. Pursuant to KRS 286.8-032(8)(b), a licensee is obligated to notify the DFI of a change in the location or name of its business in writing at least ten (10) days prior to the change.
4. Pursuant to KRS 286.8-032(9), a licensee is obligated to maintain an agent for service of process in Kentucky and to notify the DFI in writing at least five (5) business days prior to any change in the status of an agent for service of process.

### **CONCLUSIONS**

1. The Respondent violated KRS Chapter 286.8-030: a) by employing or using unregistered loan processors in connection with residential mortgage loans in Kentucky (KRS 286.8-030(1)(d)); b) by failing to notify the DFI of a change in the name or location of its business (KRS 286.8-032(8)(b)); and c) by failing to maintain an agent for service of process and/or failing to notify the DFI of any change in the status of its agent for service

of process (KRS 286.8-032(9), as set forth above and is subject to a civil penalty or fine, and other equitable relief for these violations.

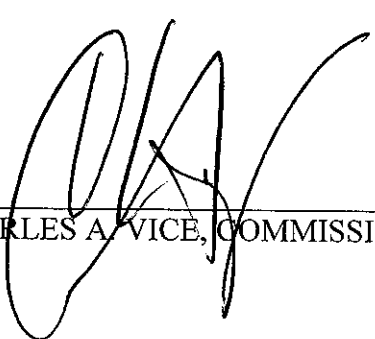
2. The Respondent was properly served the Complaint pursuant to KRS 286.8-044(2) by serving the Respondent, through certified mail/ return receipt requested, at its designated principal office and those addresses provided to NMLS (its last known addresses).
3. The Respondent has failed to respond to 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:

- a. The Respondent pay a civil penalty in the amount of TWO THOUSAND DOLLARS (\$2,000.00) for violations of the Act;
- b. 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 29<sup>th</sup> day of March, 2012.

  
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CHARLES A. VICE, COMMISSIONER

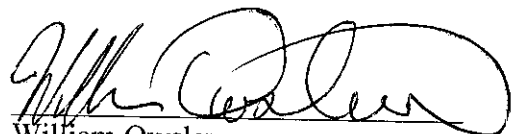
**NOTICE OF APPEAL RIGHTS**

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 29th day of March, 2012 to:

VIP Mortgage, Inc. 3320 Creek Road Sharonville, OH 45241	VIP Mortgage, Inc. 4770 Duke Drive, Suite 301 Mason, OH 45040
Chris Lykins Registered Agent – KY VIP Mortgage, Inc. 441 Sixth Ave., Suite 101 Dayton, KY 41074	
VIP Mortgage, Inc. 441 Sixth Ave., Suite 101 Dayton, KY 41074	

  
William Owsley  
Counsel