

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2015-AH-00020

ENTERED  
MAR 21 2016  
1:07 p.m.  
COMMISSIONERS OFFICE

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

**FINAL ORDER REVOKING  
CONSUMER LOAN LICENSE**

COMMONWEALTH LOAN COMPANY, LLC

RESPONDENT

\* \* \* \* \*

This matter is before the Commissioner of the Department of Financial Institutions (“DFI”) Pursuant to Kentucky Revised Statutes (“KRS”) 286.4-490(1). The Commissioner hereby enters this **FINAL ORDER** revoking the Respondent, Commonwealth Loan Company, LLC’s consumer loan license pursuant to KRS Chapter 286.4.

**FINDINGS OF FACTS**

1. DFI is responsible for regulating and licensing of consumer loan companies in accordance with the provisions set forth in KRS Chapter 286.4 et seq. and 808 KAR Ch. 6.
2. The Commonwealth Loan Company, LLC (“Respondent”), is currently licensed by DFI, license # CL72712, to conduct business as a consumer loan company in Kentucky and has a registered business location of 1040 Elizabeth Street, Suite B, Nicholasville, KY 40356.
3. Respondent is owned by G. Burgess Carey IV and M. Scott Mattmiller, who is also agent for service of process, with a registered principle office location of 1040 Elizabeth Street, Nicholasville, KY 40356.

4. Between April 28, 2015, and May 4, 2015, DFI conducted an examination of Respondent's licensed location, referenced herein, pursuant to the statutory requirement of KRS 286.4-610(2).

5. On April 28, 2015, DFI arrived at the registered licensee location of Respondent in order to examine records and conduct a review of the licensee. The licensee, through the on-site manager Eruma Taylor, denied access to the business records and failed to provide any alternative access to the records.

6. On April 28, 2015, DFI was informed by manager Eruma Taylor that the licensee's activities were being conducted at an alternate location of 1007 Elizabeth Street, Nicholasville KY 40356 although the licensee did not provide prior written notice and request an approval to change the business location to DFI as required by KRS 286.4-460(3).

7. On April 30, 2015, at 9:25 A.M., DFI arrived at the reported alternate licensee business location in an attempt to conduct an examination of the licensee and gain access to the business records. The alternate location was in a converted storage area in an alcove space that is located in a continuous and open area that is a direct extension of a Shell minimart and gas station. The licensee was not conducting business at this location at that time, had no staff present and appeared to be closed.

8. On April 30, 2015, at 2:20 pm., DFI returned to the above referenced location in an attempt to conduct the examination of the business records. Again, the licensee was not conducting business on that day, had no staff present at this time and appeared to be closed.

9. On May 4, 2015, DFI, again, arrived at the alternate business location to conduct the examination of the business records. The licensee was conducting business on this day and DFI obtained access to the licensee's records on this date.

10. During the May 4, 2015 examination, DFI obtained copies of the only loan records that were available, which included promissory note documents titled “Fixed Rate Promissory Note and Security Agreement”, but the licensee did not provide corresponding payment or account record information on that date or at any point afterward.

11. A Report of Examination was mailed to the licensee on July 2, 2015, addressed to Ms. Eruma Taylor and mailed to the registered business address, in which the licensee was informed of violations of the applicable statutes and regulations evident from the business record review and DFI’s observations during the examination conducted from April 28, 2015 through May 4, 2015.

12. The examination report also informed Respondent that DFI had not received the Annual Report for 2014 as required by KRS 286.4-590.

13. On August 7, 2015, DFI received an unsigned letter containing a purported written response to the licensee examination report in which the licensee stated that issues presented by the DFI have been remedied and licensee “is currently in compliance with all regulations”. The licensee further stated there would be “a full and updated report by the end of August” submitted to DFI by the business owners. The licensee has failed to provide any updated reports to DFI and has not provided any other documentation to demonstrate compliance.

14. No follow up documentation has been received by DFI from the licensee. No letters or documentation have been received from the owners of record regarding the issues addressed in the examination report and the licensee has failed to provide any other evidentiary support to DFI to demonstrate licensee’s reported compliance with applicable Kentucky Statutes and Regulations.

15. On January 11, 2016, an Administrative Complaint providing notice of intent to revoke the consumer loan license of Commonwealth Loan Company, LLC was sent to Mr. Burgess

Carey at the principle business address and to Mr. Scott Mattmiller, agent for service of process, at Mr. Mattmiller's business office location.

16. Service of the Administrative Complaint, with the notice of intent to revoke the license of Respondent, was sent via certified mail to the Respondent's business office of record, signed by Erma Taylor for Mr. Burgess Carey, on January 12, 2016.

17. Service of the Administrative Complaint, with notice of intent to revoke the license of Respondent, was sent via certified mail to the office of record for Mattmiller Crosbie, PLLC, signed by Shane Neal for Mr. Scott Mattmiller, attorney at law, on January 12, 2016.

18. More than ten (10) days have elapsed since Respondents received the Administrative Complaint with the notice of the intent to revoke the license and there has been no answer received by DFI and Respondent has not submitted a written request for a hearing.

#### **STATUTORY AUTHORITY**

19. Pursuant to KRS 286.4-600;

Each licensee shall keep and use in his or her business and shall preserve for at least two (2) years after making the final entry therein, such books, accounts, records, or card systems in accordance with sound accounting principles and practices to enable the commissioner to determine whether the licensee is complying with the provisions of this subtitle, and with the regulations made pursuant thereto, and for at least three (3) years on loans secured by residential property.

20. 808 KAR 6:105; as applicable at the time of the examination,

states;

Section 1. Every licensee shall keep and maintain the following books and accounting records:

- (1) "Loan register" or its equivalent record, which shall be the book of original entry and permanent record and shall properly identify each account by number, date of loan and amount of loan.
- (2) An individual account ledger card with borrowers which shall show the name and address of the borrower, the loan number, the amount and date of the loan and of its maturity, rate of interest, terms of repayment, the nature of the security, if any, for the loan and the dates of receipt and payment of recording fees together with the amount.
  - (a) The account ledger or card shall provide separate columns for payments of principal, and shall be kept in such manner as to show clearly the balance due on principal. All payments shall be credited promptly upon the account ledger or card.
  - (b) Loan or payment cards for consumer loans and/or sales finance loans shall be maintained in separate files at all times.
  - (c) If any error should be made on the individual account ledger or card, appropriate correction should be made without erasures.
- (3) An appropriate filing system, which shall contain all the current evidences of indebtedness or security which have been signed by the borrower.
- (4) An individual index record shall be maintained for every endorser, accommodation co-maker, or surety, except a spouse listed on the record of the borrower. The above office record shall be made available for examination upon request by the Commissioner of the Department of Financial Institutions or his representatives.
- (5) In lieu of the books and records described in Section 1(1), (2), and (4) of this administrative regulation, the licensee may, with the prior written approval of the executive director, maintain such required information with electronic data processing equipment. Such required information shall be readily accessible and retrievable; its form and content shall be consistent with the information available from the books and records described in Section 1(1), (2), and (4) of this administrative regulation.

21. KRS 286.4-590 states;

Each licensee shall annually on or before January 30, file with the commissioner a report for the preceding calendar year. The report shall give information with respect to the financial condition of the licensee and other relevant information as the commissioner may reasonably require. In the event any person or affiliated group of corporations holds more than one (1) license in the state, he, she, or they may file a composite annual report in lieu of separate reports for each licensed office. The report shall be made under oath in the form prescribed by the commissioner, who shall make and publish annually an analysis and recapitulation of the reports.

22. KRS 286.4-460(3) states, in relevant part;

Whenever a licensee desires to change his or her place of business to another location within the same county the licensee shall give written notice to the commissioner, who, if he or she finds that the interests of the community will be served thereby, shall indorse on the license a transfer to the new place of business, with the date of transfer, which indorsement shall be authority for the operation of the business at the new location...

23. KRS 286.4-470(1) states;

No licensee shall conduct the business authorized by this subtitle in any office, room, or place of business in which any other business, except purchase of retail and installment sales contracts and motor club memberships, is solicited or engaged in, or in association or conjunction therewith, except upon a written authorization from the commissioner.

24. 808 KAR 6:095 states;

Every licensee shall maintain a place of business to which the general public shall have free access and where all obligations entered into shall be payable. For the purposes of doing business with the general public, the acceptance of payments from borrowers and to permit the executive director and his representatives to examine the books, accounts, records and files of licensees and to enter complaints, each licensed office shall be open not less than four (4) consecutive hours between 8 a.m. and 6 p.m. on any four (4) days of each week, except legal holidays generally observed in the community in which the licensed office is located.

25. KRS 286.4-410(1) states;
- (a) "Commissioner" means the commissioner of financial institutions; and
  - (b) "Licensee" means a person licensed under this subtitle; and
  - (c) "Person" means an individual, partnership, association, trust, corporation and any other legal entity.
26. KRS 286.4-490(1) through (3) state;
- (1) The commissioner may revoke any license issued under this subtitle if the commissioner finds:
    - (a) That the licensee has failed to pay his annual license fee; or
    - (b) That the licensee has violated any provision of this subtitle or has failed to comply with any administrative regulation lawfully promulgated pursuant thereto; or
    - (c) That any fact or condition then exists which clearly would have warranted the commissioner in refusing to issue a license on an original application; or
    - (d) That the licensee has failed to open an office for business within one hundred twenty (120) days from the date the license is granted, or has failed to remain open for business for a period of one hundred twenty (120) days, unless in each case good cause be shown.
  - (2) The commissioner may suspend any license for a period not exceeding thirty (30) days, pending investigation of possible grounds for revocation under paragraphs (b) or (c) of subsection (1) of this section.
  - (3) Before the revocation of a license under subsection (1), or suspension under subsection (2), the licensee shall be given ten (10) days' written notice of the contemplated revocation or suspension of his license, the grounds therefor stated specifically, and an opportunity for an administrative hearing to be conducted in accordance with KRS Chapter 13B.

## CONCLUSIONS OF LAW

27. Respondent failed to accurately maintain books, accounts, records or card systems in accordance with sound accounting principles as required by KRS 286.4-600 and 808 KAR 6:105.

28. Respondent failed to submit the Annual Report as required under KRS 286.4-590.

29. Respondent failed to submit written notice of, and obtain approval for, the change of business location as required by KRS 286.4-460(3).

30. Respondent conducted business, without prior authorization, in a location in which another business operates in violation of KRS 286.4-470(1) and 808 KAR 6:095.

31. As a result of the above violations, there are grounds to revoke Respondent's license pursuant to KRS 286.4-490(1)(b).

32. Per KRS 286.4-490(3), the Respondent was properly served with the Complaint and more than ten (10) days have elapsed since Respondent was given written notice of the contemplated revocation or suspension of his license, the grounds therefore stated specifically and an opportunity for an administrative hearing to be conducted in accordance with KRS 13B.

33. Respondent did not respond to the Administrative Complaint with the notice of the intent to revoke Respondent's consumer loan license or request a hearing within the ten (10) day time frame allowed by KRS 286.4-490(3).

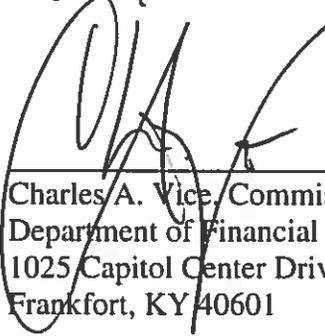
34. Based on the findings of facts and conclusions of law set forth herein, Respondent's license should be revoked per KRS 286.4-490(1).

**ORDER**

**THEREFORE**, based on the foregoing findings of fact, statutory authority and conclusions of law set forth above, the license of the Commonwealth Loan Company, LLC is hereby **REVOKED**.

This is a **FINAL AND APPEALABLE ORDER**. The **EFFECTIVE DATE** of this Order shall be the date reflected on the certificate of service attached to this Order.

Executed on the 18<sup>th</sup> day of March, 2016.



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Charles A. Vice, Commissioner  
Department of Financial Institutions  
1025 Capitol Center Drive, Suite 200  
Frankfort, KY 40601

**NOTICE OF APPEAL RIGHTS**

Pursuant to KRS 286.4-500, you are hereby notified that you have a 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 thirty (30) days after the service of a copy of the Final Order. A copy of any Appeal petition must be served on the Commissioner.

**Certification of Service**

I hereby certify that a copy of the foregoing **Final Order** was sent via certified mail, return receipt requested, on this the 21 day of March, 2016 to:

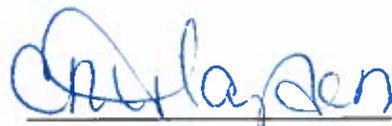
M. Scott Mattmiller  
c/o Mattmiller Crosbie, PLLC  
301 E Main St., #750  
Lexington, KY 40507

M. Scott Mattmiller, *agent for service*  
c/o BULLOCK & COFFMAN, LLP  
234 Limestone Street  
Lexington, KY 40507

G. Burgess Carey  
1040 Elizabeth Street, Suite B  
Nicholasville, KY 40356

Hand delivered to:

Catherine Falconer  
Department of Financial Institutions  
1025 Capital Center Drive, Suite 200  
Frankfort, KY 40601



Department of Financial Institutions