COMMONWEALTH OF KENTUCKY
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
OFFICE OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2007-AH-221
ADMINISTRATIVE ACTION NO. 07-PPC-0128

OFFICE OF FINANCIAL INSTITUTIONS COMPLAINANT

vs.

MORTGAGE SOLUTIONS GROUP, INC. RESPONDENT

FINAL ORDER OF DEFAULT

The Respondent has failed to respond to the Administrative Complaint filed herein on March 30, 2007, and the Amended Administrative Complaint filed on April 16, 2007 which complaints contained the following language, "You are advised that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter." At a telephonic prehearing conference on April 18, 2007, Respondent acknowledged having received the Amended Complaint and agreed to participate in a second telephonic prehearing conference on May 21, 2007. Respondent failed to appear for that second prehearing conference, failed to respond to a Show Cause Order, and failed to participate or respond to this administrative action in any manner whatsoever despite several attempts to make contact.

The Respondent not being under any known disability and not being in the military service or otherwise unable for any reason to file a timely Response to said Administrative Complaints, to participate in the scheduled May 21, 2007 telephonic prehearing conference, or to respond to the administrative action in any other fashion;

Pursuant to the provisions contained in 808 KAR 10:225 AND KRS 13B.080(6) that the Complainant is entitled to a Final Order of Default for the relief requested in its Administrative Complaints.

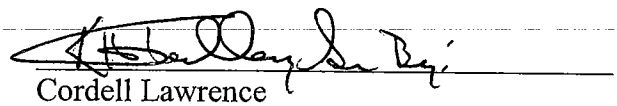
IT IS THEREFORE ORDERED:

1. The mortgage broker license #7676 of Respondent is **REVOKED**.
2. Respondent, within ninety (90) days, shall make full and complete payment of the examination fee bill in the amount of One Thousand Two Hundred Seven Dollars and Fifty Cents ($1,207.50) to the Kentucky State Treasurer.
3. The Hearing Officer's Recommended Order of Default issued June 8, 2007, is incorporated by reference in its entirety into this Final Order of Default.

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 Executive Director. If you choose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within sixty (60) days after entry of this order.

It is so **ORDERED** this the 16 day of August 2007.



Cordell Lawrence
Executive Director
Office of Financial Institutions

Certificate of Service

I, Greg Jennings, certify that a copy of the foregoing Order of Default was mailed certified, return receipt requested, to Scott Winterton, c/o David Winterton, 7306 Hunting Creek Drive, Louisville, Kentucky 40059, and my messenger mail to the Hon. Scott Majors, Hearing Officer, Division of Administrative Hearings, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, this the 16th day of August, 2007.

Greg Jennings
General Counsel
Office of Financial Institutions

COMMONWEALTH OF KENTUCKY
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
OFFICE OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2007-AH-221
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OFFICE OF FINANCIAL INSTITUTIONS — COMPLAINANT

vs.

MORTGAGE SOLUTIONS GROUP, INC. — RESPONDENT

* * * * *

RECOMMENDED ORDER OF DEFAULT

* * * * *

A scheduled telephonic prehearing conference was scheduled on May 21, 2007. The Hearing Officer was unsuccessful in reaching Mr. Scott Winterton, President of the Respondent, Mortgage Solutions Group, Inc. ("MSG"), who participated in the initial teleconference. The May 21 teleconference took place as scheduled with an appearance by the Complainant, the Office of Financial Institutions ("the Office"), through its counsel, Aubrey R. Mooney, Esq.

Mr. Mooney advised that Mr. Winterton met with representatives of the Office on May 2, 2007 to discuss this action and related matters. Mr. Winterton voluntarily relinquished MSG's mortgage certificate / license at that time. Nevertheless, the Office represented to Mr. Winterton that consideration of a favorable dismissal of this action could not be obtained unless MSG further addressed the alleged statutory violations and payment of the examination fee. Mr. Mooney advised that Mr. Winterton indicated at this meeting that he would not be securing the services of private counsel to represent MSG in this proceeding. Mr. Mooney further advised that the Office has received no further communication from Mr. Winterton.

Due to Mr. Winterton's failure to participate in the scheduled teleconference on May 21, 2007, the Office moved for entry of a recommended order of default.

Following consideration, the Hearing Officer issued a Show Cause Order on May 21, 2007, which afforded MSG through May 31, 2007, in which to show cause in writing, if any it had, why the Hearing Officer should not issue a Recommended Order of Default based on MSG's failure to participate in the telephonic prehearing conference as scheduled. MSG was also admonished that its failure to timely show cause in writing may result in filing of a Recommended Order of Default. The Hearing Officer noted in the Show Cause Order that the first full paragraph of the Office's Administrative Complaint, dated March 30, 2007, provided notice to MSG that "... any party who fails to attend or participate as required at any stage of the administrative proceeding process may be held in default . . . ." The Hearing Officer further noted in the Show cause Order that paragraph 4 of the Order dated April 3, 2007, which scheduled the initial telephonic prehearing conference, provided in relevant part:

> Pursuant to KRS 13B.080(6):
>
> If a party properly served . . . fails to attend or participate in a prehearing conference, . . . the hearing officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in KRS 13B.110.

As of the date of this Recommended Order, approximately eight (8) days after the response deadline established in the Show Cause Order, the Hearing Officer has received no communication from MSG, or representatives on its behalf, in response to the Show Cause Order.

Accordingly, it appearing that MSG has no present intent to respond to the Office's motion for default or to the Show Cause Order, or to participate in this administrative action in any other fashion, IT IS HEREBY RECOMMENDED that a Final Order be entered which:

1. Adjudges MSG to be in default;

2. By reason of MSG's default, declares as proven as if fully confessed herein all the charges in the Office's Administrative Complaint, dated March 30, 2007; and

3. Orders such sanctions against MSG as the Office believes to be appropriate under the facts.

Notice of Exception and Appeal Rights

Pursuant to KRS 13B.110(4) a party has the right to file exceptions to this recommended decision:

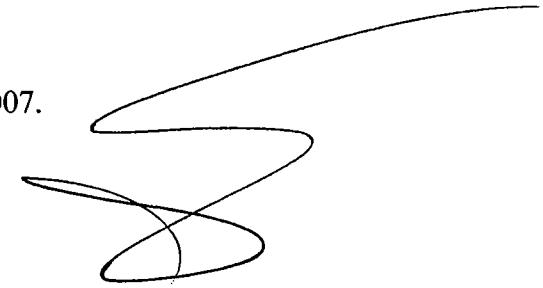
> A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head.

A party also has a right to appeal the Final Order of the agency pursuant to KRS 13B.140(1) which states:

> All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 23A.010(4), "Such review [by the circuit court] shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

SO RECOMMENDED this 8th day of June, 2007.



SCOTT D. MAJORS
HEARING OFFICER
DIV. OF ADMINISTRATIVE HEARINGS
OFFICE OF THE ATTORNEY GENERAL
1024 CAPITAL CENTER DR., STE. 200
FRANKFORT, KY 40601-8204
(502) 696-5442
(502) 573-1009 - FAX

CERTIFICATE OF SERVICE

I hereby certify that the original of this RECOMMENDED ORDER was mailed this 8th day of June, 2007, by messenger mail, to:

GENERAL COUNSEL
OFFICE OF FINANCIAL INSTITUTIONS
1025 CAPITAL CENTER DR STE 200
FRANKFORT KY 40601

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

SCOTT WINTERTON
C/O DAVID WINTERTON
7306 HUNTING CREEK DR
LOUISVILLE KY 40059

and, by messenger mail, to:

AUBREY R MOONEY
STAFF ATTORNEY
OFFICE OF FINANCIAL INSTITUTIONS
1025 CAPITAL CENTER DR STE 200
FRANKFORT KY 40601

Stephanie Brancee

DOCKET COORDINATOR
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