COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2009-AH-77

DEPARTMENT OF FINANCIAL INSTITUTIONS COMPLAINANT

v. **FINAL ORDER TO CEASE AND DESIST AND IMPOSING FINE**

VETERANS HOME MORTGAGE, INC. RESPONDENT

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The Commissioner of the Department of Financial Institutions ("DFI") hereby enters this **Final Order** directing Veterans home Mortgage, Inc. ("Respondent") to pay a **Fine** in the amount of $2,500; and to immediately **Cease and Desist** from transacting business in Kentucky with unregistered mortgage loan originators, until such time as any unregistered mortgage loan originator is properly registered pursuant to KRS Chapter 286.8.

STATEMENT OF FACTS

1. 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 Loan Company and Mortgage Loan Broker Act (the "Act").

2. Respondent was authorized to do business in Kentucky as a mortgage company pursuant to the Act, with its principal office located at 2808 Shepperd Road, Monkton, MD 21111. Respondent's license number is MC21829.

3. During an examination of Taylor, Bean & Whitaker, DFI discovered that Respondent, in transacting mortgage loan business, utilized an unregistered loan officer to originate mortgage loans during the 2008 calendar year in violation of KRS 286.8-090.

4. By letter dated September 24, 2009, DFI notified Respondent of the violation of KRS 286.8-090. The letter was sent certified mail, return receipt requested, to 2808 Shepperd Road, Monkton, MD 21111. The letter was signed for by Respondent on September 28, 2009. Respondent did not respond to the letter.

5. On October 28, 2009, DFI filed an Administrative Complaint ("Complaint") against Respondent seeking imposition of a $2,500 fine against Respondent `and that Respondent be ordered to cease and desist from transacting business in Kentucky with unregistered mortgage loan originators, until such time as any unregistered mortgage loan originator is properly registered pursuant to KRS Chapter 286.8.

6. The Complaint was sent to Respondent via certified mail, return receipt requested at 2808 Shepperd Road, Monkton, MD 21111, the address listed on file with the DFI as Respondent's mailing address. In addition, the Complaint was mailed via certified mail, return receipt requested, to Incorp Services, Inc., 828 Lane Allen Road, Suite 219, Lexington, Kentucky 40504. Incorp Services, Inc. is listed as the Respondent's registered agent with the Kentucky Secretary of State.

7. The Complaint was signed for by the Respondent on October 30, 2009. Incorp Services, Inc. signed for the Complaint on October 29, 2009.

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. A "loan officer" or "loan originator" is "...an individual who discusses or negotiates the rates, terms, and conditions of a loan with a borrower or prospective borrower. The term does not mean a person who performs functions of a loan processor, nor does it mean an individual who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company." *See* KRS 286.8-010(9).[1]

10. Pursuant to KRS 286.8-255(1), "...no mortgage loan broker and no loan officer shall originate mortgage loans in Kentucky unless such mortgage loan broker or loan officer is registered with the office and has been issued a certificate of registration by the office. The office shall maintain a registry of all mortgage loan brokers and loan officers originating mortgage loans in Kentucky. The office shall issue a certificate of registration to all registered mortgage loan brokers and loan officers."

11. Pursuant to KRS 286.8-090(1)(a),(c), and (m), the Commissioner may suspend, revoke, place on probation, or 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 does not conduct his business in accordance with the law, or the person has employed an unregistered loan officer.

12. KRS 286.8-990(5) 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 five thousand dollars ($5,000) per violation.

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

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[1] The statutory authority cited is the statutory authority in effect at the time of the violation.

(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

14. Respondent violated KRS 286.8-090 by employing or using an unregistered loan originator to originate mortgage loans. Respondent is subject to a fine of two thousand five hundred dollars ($2,500) for this violation.

15. 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 Complaint to the Respondent's registered agent. Both the Respondent and the Respondent's registered agent signed the certified mail receipt for the Complaint.

16. 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. Veterans Home Mortgage, Inc. shall pay a civil penalty in the amount of two thousand and five hundred dollars ($2,500.00) for violation of KRS 286.8-030. The check 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: Shaun T. Orme, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601; and

2. Veterans Home Mortgage, Inc. shall **CEASE AND DESIST** from transacting business in Kentucky with unregistered mortgage loan originators, until such time as any unregistered mortgage loan originator is properly registered as a mortgage loan originator pursuant to KRS Chapter 286.8.

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.

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 completion of service of this Final Order. A copy of any Appeal Petition must also be served on the Commissioner.

IT IS SO ORDERED on this the 20th day of January, 2010.

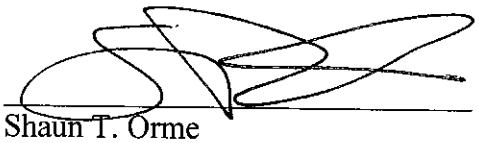
CHARLES A. VICE
COMMISSIONER

Certificate of Service

I hereby certify that a copy of the foregoing **Final Order to Cease and Desist and Imposing Fine** was sent by certified mail to, return receipt requested, on this the 25th day of January, 2010 to:

Nancy Wallis
Veterans Home Mortgage
2808 Shepperd Road
Monkton, MD 21111

Incorp Services, Inc.
828 Lane Allen Road, Ste. 219
Lexington, KY 40504



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