COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2011-AH-0198

DEPARTMENT OF FINANCIAL INSTITUTIONS — COMPLAINANT

v.

FINAL ORDER
IMPOSING FINE, FEES AND COSTS

NATIONS FUNDING SOURCE, INC. — RESPONDENT

* * * * * * * * *

The Commissioner of the Department of Financial Institutions ("DFI") hereby enters this Final Order, pursuant to KRS Chapter 286.8, directing the Respondent, Nations Funding Source, Inc. ("Respondent"), to pay a Fine in the amount of two thousand, five hundred dollars ($2,500.00); to pay Restitution in the amount of two thousand, eight hundred and seventy-six dollars ($2,876.00); and to reimburse the DFI for the costs, expenses and attorney's fees associated with the prosecution of this matter as set forth herein.

FINDINGS OF FACT

1. The DFI is responsible for regulating and licensing mortgage loan companies, originators and brokers in accordance with the provisions of KRS Chapter 286.8, the Mortgage Licensing and Regulation Act (the "Act"). No person shall transact business in Kentucky, either directly or indirectly, as a mortgage loan company unless the mortgage loan company is licensed in accordance with KRS Chapter 286.8 or is exempted therefrom. *See* KRS 286.8-030(1)(a).

2. Respondent is a mortgage loan broker previously licensed to do business in Kentucky pursuant to the Act, and had its principal office and last known address located at 280 W. Prospect Road, Ft. Lauderdale, Florida 33309.

3. Respondent's initial license was effective on May 8, 2007 and was in effect at all times relevant herein. Respondent thereafter surrendered its Kentucky license effective October 7, 2010. Respondent's Nationwide Mortgage Licensing System and Registry ("NMLS") number is 6032.

4. At all times relevant herein, Sookrani Narain was the owner of Respondent.

5. On June 2, 2011, the DFI conducted an examination of Genworth Financial Home Equity Access, Inc., a mortgage loan company licensed to conduct such business in Kentucky. As a result of the examination, the DFI discovered that Respondent originated and acted as the mortgage loan broker on a mortgage loan in the amount of $54,000.00 that was funded by Genworth on June 7, 2010, and that Respondent collected total net income from the loan of $4,876.00.

6. Pursuant to KRS 286.8-125, the "total loan amount" of this mortgage loan was $49,124.00 (amount financed less total net income to Respondent).

7. Pursuant to KRS 286.8-125, four percent (4%) of the total loan amount of this mortgage loan is $1,964.96 and, because such sum does not exceed two thousand dollars ($2,000), the maximum income that Respondent was permitted to generate in connection with this mortgage loan was two thousand dollars ($2,000).

8. On November 7, 2011, the DFI sent to Respondent a written notice, via first class mail to Respondent's last known address and by electronic mail, of Respondent's violation of KRS 286.8-125 and offering Respondent the opportunity to avoid the imposition of fines, costs and/or fees by making a refund to the borrower of two thousand, eight hundred and seventy-six dollars ($2,876.00), representing the full amount of Respondent's fee exceeding the permissible limit.

9. On November 7, 2011, Respondent delivered an electronic mail to the DFI acknowledging receipt of the DFI's letter and advising that it would communicate further within a "couple of days." However, Respondent failed to deliver any further response to the DFI.

10. Based on the foregoing, the DFI asserts that Respondent has violated KRS 286.8-125 and is liable for restitution to the borrower, as well as subject to fines, costs and expenses, including attorney's fees, and other affirmative action as the Commissioner may deem necessary.

11. On December 8, 2011, the DFI filed an Administrative Complaint ("Complaint") against Respondent seeking an order awarding the imposition of a fine of not less than two thousand, five hundred dollars ($2,500.00), restitution to the borrower in the amount of two thousand, eight hundred and seventy-six dollars ($2,876.00), as well as any other appropriate relief to which the DFI may be entitled under the Act, including its costs, expenses, and attorney's fees for the prosecution of the matter.

12. The Complaint was mailed via certified mail, return receipt requested, to Respondent's principal office and last known address as set forth above.

13. On December 28, 2011, the Complaint was returned to the DFI marked by the United States Postal Service with a notice that Respondent's address had changed to 239 Commercial Boulevard, Suite 100, Fort Lauderdale, Florida 33308-4428, but that its forwarding time had expired. Accordingly, on December 28, 2011, the DFI reissued the Complaint to Respondent's new last known address via certified mail, return receipt requested.

14. On January 13, 2012, the reissued Complaint was returned to the DFI undelivered and marked "Return to Sender, Attempted – Not Known."

15. More than twenty (20) days have passed since the DFI received notice that the Complaint was returned undelivered, but the DFI has not received a written request from Respondent for a hearing in this matter.

STATUTORY AUTHORITY

16. Pursuant to KRS 286.8-125(1), "It shall be unlawful for any licensee or person holding a claim of exemption to originate a loan secured by a mortgage on residential real property in Kentucky if the total net income generated by the licensee or person exceeds two thousand dollars ($2,000) or four percent (4%) of the total loan amount, whichever is greater."

17. Pursuant to KRS 286.8-125(2)(b), "Total loan amount" means the amount financed in the mortgage loan less the total net income generated by the originating licensee or person, or the affiliate of the originating licensee or person."

18. Pursuant to KRS 286.090(1)(a) and (c), 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 or the person does not conduct his business in accordance with the law.

19. Pursuant to KRS 286.8-046(1), the Commissioner may 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, plus the state's costs and expenses for the examination, investigation, and prosecution of the matter, including reasonable attorney's fees and

court costs. In addition, the Commissioner may order restitution, refund, recovery of expenses, or direct such other affirmative action as he or she deems necessary.

20. Pursuant to KRS 286.8-044(2), "The executive director may file an administrative complaint against any person if it appears on grounds satisfactory to the executive director that a potential or actual violation of this subtitle has been committed and when the person may be subject to the penalties of KRS 286.8-046, 286.8-090, and 286.8-990. The executive director 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. If timely requested, an administrative hearing shall be held in accordance with the provisions of KRS Chapter 13B. If a written answer and request for hearing are not made within twenty (20) days of service or delivery of the complaint, the executive director shall enter a final order granting the relief requested in the complaint."

21. Pursuant to KRS 286.8-044(3), service by certified mail shall be complete upon the earlier of the following:

(a) The date on which the person receives the mail;

(b) The date on which the agency receives the return receipt; or

(c) The date on which the agency receives notice that the mail has been returned undelivered.

CONCLUSIONS

1. Respondent violated KRS 286.8-125(1) by generating net income, on the origination of a mortgage loan in residential real property in Kentucky, in excess of two thousand dollars ($2,000). Therefore, Respondent is subject to a fine of two thousand, five hundred dollars ($2,500.00) for this violation.

2. The Complaint was properly served upon Respondent via certified mail to its last known address in accordance with KRS 286.8-044(2) and 808 KAR 12:030.

3. Service of the Complaint upon Respondent was complete by no later than January 13, 2012, pursuant to KRS 286.8-044(3)(a-c).

4. Respondent failed to respond to the Complaint by filing a written answer or requesting a hearing within twenty (20) days of service. Thus, Respondent's right to a hearing has been waived in this matter.

ORDER

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

1. Respondent Nations Funding Source, Inc. shall pay a civil penalty in the amount of two thousand, five hundred dollars ($2,500.00) for its violation of KRS 286.8-125. The payment 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: Michael T. Davis, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601;

2. Respondent Nations Funding Source, Inc. shall refund and make restitution to the borrower the amount of income it generated in excess of the limit permissible under the Act, two thousand, eight hundred and seventy-six dollars

($2,876.00). The payment shall be in the form of a certified check or money order made payable to the borrower and mailed to the Department of Financial Institutions, Attn: Michael T. Davis, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601;

3. Respondent Nations Funding Source, Inc. shall pay to and reimburse the DFI the additional sum of six hundred, eighty-seven dollars and fifty cents ($687.50), its costs, expenses, and/or attorney's fees associated with the prosecution of this matter as set forth in Exhibit A to this Order; and

4. Respondent Nations Funding Source, Inc. shall **CEASE AND DESIST** from transacting business in Kentucky as a mortgage loan broker, unless and until Respondent complies with all applicable provisions of 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, KRS 13B.120, and KRS 13B.050.

IT IS SO ORDERED on this the 7th day of February, 2012.

CHARLES A. VICE
COMMISSIONER

NOTICE OF APPEAL RIGHTS

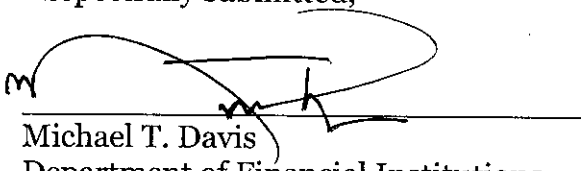
Pursuant to KRS 286.8-210, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you chose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within sixty (60) days after entry of this Final Order. A copy of any Appeal Petition 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, return receipt requested, on this the 7th day of February, 2012 to:

Nations Funding Source, Inc.
Attn: Sookrani Narain
239 Commercial Boulevard, Suite 100
Ft. Lauderdale, Florida 33308-4428
Respondent

Respectfully submitted,



Michael T. Davis
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
(502) 573-3390 Ext. 240
(502) 573-2183 (facsimile)
Counsel for Complainant

TIME SHEET

(COSTS ASSOCIATED WITH ADMINISTRATIVE ACTION)

NAME/TITLE: Michael T. Davis, Counsel

DATE: 2/6/2012

Time/Hours (in .25 increments)	Rate/Hour $125	Description of Work Completed
1.00 hours		Review enforcement file, research alleged violations, compose demand letter.
0.50 hours		Monitor status of file, check service upon Respondent.
1.25 hours		Draft Administrative Complaint.
0.50 hours		Monitor status of file, verify service of Complaint upon Respondent.
0.75 hours		Correspondence with Surety regarding claim against Bond.
1.50 hours		Draft Final Order.
TOTAL: 5.50 hours@$125	**TOTAL $687.50**	

By signing below, I hereby certify that the information contained herein is true and accurate record of the time expended by me on this matter.