

**BEFORE THE COMMISSIONER FOR THE
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS
COMPLIANCE DIVISION**

IN THE MATTER OF:

**FIDELITY HOME MORTGAGE
CORPORATION**

DOCKET NO. 03.06-106119J

ORDER

THIS ORDER IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **April 7, 2010**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 EIGHTH AVENUE NORTH, 8th FLOOR
NASHVILLE, TENNESSEE 37243-0307

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER FOR THE
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS
COMPLIANCE DIVISION**

IN THE MATTER OF:)	
)	
DEPARTMENT OF FINANCIAL INSTITUTIONS, COMPLIANCE DIVISION,)	
)	
Petitioner,)	DOCKET NO. 03.06-106119J
)	TDFI # 08-62-C
v.)	
)	
FIDELITY HOME MORTGAGE CORPORATION,)	
)	
Respondent.)	

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on Tuesday, March 2, 2010, at 10:00 a.m. central standard time, before Administrative Judge Thomas G. Stovall of the Administrative Procedures Division of the Tennessee Department of State, sitting for the Commissioner of the Tennessee Department of Financial Institutions (hereinafter, "Commissioner"). The Compliance Division of the Tennessee Department of Financial Institutions (hereinafter, "Petitioner") was represented by Eric E. Rogers and Jera L. Bradshaw, staff attorneys with the Department of Financial Institutions. No attorney has made an appearance on behalf of Fidelity Home Mortgage Corporation (hereinafter, "Respondent").

Judge Thomas G. Stovall is vested with jurisdiction to hear this matter on behalf of the Commissioner pursuant to TENN. CODE ANN. § 45-1-105 and the Tennessee

Residential Lending, Brokerage and Servicing Act, TENN. CODE ANN. §§ 45-13-101 *et seq.* (hereinafter, “Mortgage Act”). This matter is a contested case proceeding pursuant to the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-301, *et seq.*, initiated by the Petitioner seeking an order requiring the Respondent to: (1) pay a civil monetary penalty not to exceed Forty Thousand and No/100 Dollars (\$40,000) for the four (4) violations of TENN. CODE ANN. § 45-13-126(a)¹ [now TENN. CODE ANN. § 45-13-401(4)].

After consideration of the pleadings, the argument of counsel, witness testimony and the entire record as a whole, it is **DETERMINED** that the maximum relief requested by the Petitioner in the Notice of Charges **SHOULD** be granted. Said decision is based on the Preliminary Rulings and Order of Default, Findings of Fact, and Conclusions of Law stated below.

PRELIMINARY RULINGS AND ORDER OF DEFAULT

1. The record indicates that the Respondent was served with a Notice of Opportunity for a Hearing and of the Rights of the Respondent and a Notice of Charges on April 22, 2009, and that the Respondent did not prepare or produce any formal response. All communication with the Respondent ceased in the summer of 2009.

¹ In June 2009, the Tennessee legislature amended the Tennessee Residential Lending, Brokerage and Servicing Act of 1988. The amendments expanded, reworded and/or rearranged certain Mortgage Act provisions; however, the purpose and substance of many provisions remain unchanged. See Tennessee Residential Lending, Brokerage and Servicing Act, ch. 499, 2009 Tenn. Pub. Acts 6 [hereinafter “New Mortgage Act”] (effective July 1, 2009) (revising licensing and regulation of mortgage lenders, mortgage loan brokers, mortgage loan servicers and mortgage loan originators). Within this Order, the old statutory references are made, as contained in the Notice of Charges provided to the Respondent and filed with the Court, followed by the corresponding current statutory citation.

2. A Notice of Hearing was mailed to the Respondent in care of its registered agent for service of process on February 9, 2010, and the Respondent did not respond in any way to the Petitioner.

3. The Court prepared an Order that was entered on February 10, 2010 in this matter, which was mailed both to the Petitioner and to the Respondent in care of its registered agent on February 10, 2010.

4. Having received no response from the Respondent, counsel for the Petitioner orally moved at the hearing of this matter on March 2, 2010 to hold the Respondent in default and to continue on an uncontested basis pursuant to TENN. CODE ANN. § 4-5-309(a) and the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies Rule 1360-4-1-.15, based upon Respondent's failure to appear at the hearing or to respond in any way.

5. Petitioner's oral motion for default was granted, and it was **ORDERED** to the Respondent be held in default for failing to appear after due notice.

6. Having held the Respondent in **DEFAULT**, the matter was tried as uncontested pursuant to Rule 1360-4-1-.15 of the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies.

FINDINGS OF FACT

7. Tenn. Code Ann. § 45-1-104 provides that the Department is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45 (Banks and Financial Institutions).

8. The Commissioner is responsible for the administration, enforcement, and interpretation of the Mortgage Act and any rules promulgated pursuant to the Mortgage Act.

9. The Petitioner is the lawfully designated representative through which the Commissioner regulates any and all persons subject to the Mortgage Act.

10. The Respondent was a Maryland for-profit corporation whose principal office was located at 1012 North Point Road, Baltimore, Maryland 21224.

11. The Respondent's initial registered agent for service of process was National Corporate Research Ltd., Inc., 7176 Forrest Oaks Drive, Nashville, Tennessee 37221. The Respondent does not currently have a registered agent with the Tennessee Department of State, Division of Business Services.

12. The Respondent, at all times relevant hereto, was licensed by the Department, having been issued license number 1505.

13. The Respondent was served with a "Notice of Charges" and a "Notice of Opportunity for a Hearing and of the Rights of the Respondent" in the above-captioned case through its registered agent and at its last known principal office address on April 22, 2009.

14. The Respondent was mailed a "Notice of Hearing" in care of its registered agent and at its last known principal office address on February 9, 2010.

15. The Respondent was mailed an "Order" regarding this matter in care of its registered agent and at its last known principal office address on February 10, 2010.

16. The Respondent was examined by the Department beginning on October 18, 2007, and ending on March 6, 2008.

17. On or about March 6, 2008, the Department completed a “Report of Examination,” for Respondent.

18. The Respondent had Andrew Anthony, who is not registered as a mortgage loan originator of the Respondent, perform loan origination activities on loan number 2060112013.

19. The Respondent had Thomas West, who is not registered as a mortgage loan originator of the Respondent, perform loan origination activities on loan number 2060905027.

20. The Respondent had Thomas May, who is not registered as a mortgage loan originator of the Respondent, perform loan origination activities on loan number 2060112018.

21. The Respondent had Joseph Webb, who is not registered as a mortgage loan originator of the Respondent, perform loan origination activities on loan number 2060112010.

CONCLUSIONS OF LAW

22. TENN. CODE ANN. § 45-13-126(a) [now TENN. CODE ANN. § 301(a)] states that “[a]n individual...shall not engage in the business of a mortgage loan originator with response to any dwelling located in this state without first obtaining and maintaining annually a license issued by the commissioner...”

23. The Findings of Fact set forth above show by a preponderance of the evidence that the Respondent, while a licensee under the Act, committed four (4) violations of TENN. CODE ANN. § 45-13-126(a) [now TENN. CODE ANN. § 45-13-301(a)]

by having the four (4) individuals listed in numbered paragraphs eighteen (18), nineteen (19), twenty (20) and twenty-one (21) perform mortgage loan origination services while not registered with the Department as mortgage loan originators of the Respondent.

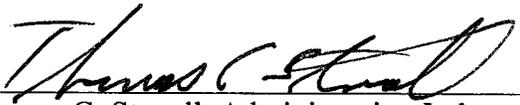
24. TENN. CODE ANN. § 45-13-116 [now TENN. CODE ANN. § 45-13-405(a)] provides, in part, that if, after notice and opportunity for a hearing, the Commissioner finds that a person has violated this chapter, the commissioner may “order the person to pay the commissioner a civil monetary penalty of not more than ten thousand dollars (\$10,000.00) for each violation of this chapter or administrative rule issued pursuant to this chapter”

25. Because the Findings of Fact are sufficient to establish by a preponderance of the evidence that the Respondent has committed the violations of the Act stated herein, TENN. CODE ANN. § 45-13-116 [now TENN. CODE ANN. § 45-13-405(a)] provides grounds to order the Respondent to pay a civil monetary penalty of Forty Thousand and No/100 Dollars (\$40,000.00).

ORDER

IT IS THEREFORE **ORDERED, ADJUDGED AND DECREED** that the Respondent, Fidelity Home Mortgage Corporation, shall pay to the Department of Financial Institutions a civil monetary penalty of Forty Thousand and No/100 Dollars (\$40,000.00) for the four (4) violations of TENN. CODE ANN. § 45-13-126(a) [now TENN. CODE ANN. § 45-13-401(4)].

This Initial Order entered and effective this 23RD day of MARCH, 2010.



Thomas G. Stovall, Administrative Judge

Filed in the Administrative Procedures Division this 23RD day of MARCH, 2010.



Thomas G. Stovall, Director

APPENDIX A TO INITIAL ORDER

NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.