BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA

FILED
APR 10 2014
STATE OF OKLAHOMA
DEPARTMENT OF
CONSUMER CREDIT

STATE OF OKLAHOMA, ex rel., DEPARTMENT OF CONSUMER CREDIT,	)	
Petitioner	)	
v.	)	Case No. 14-0026-DIS
IKON FINANCIAL GROUP, LLC.,	)	
Respondent	)	

FINAL AGENCY ORDER

ON THE 10th day of March, 2014, at approximately 1:35 p.m. (after providing additional time to the Respondent or its legal counsel, if any, to appear beginning at 1:30 p.m.), the above numbered and entitled cause (scheduled for 1:30 p.m.) came on for hearing at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112.

The State of Oklahoma, ex rel. Oklahoma Department of Consumer Credit (the "Department" or "Petitioner"), was represented by the Department's General Counsel Roy John Martin and the Respondent IKON Financial Group, LLC., the mailing address of which is 1022 Carolina Boulevard, Isle of Palms, South Carolina 29451 (the "Respondent"), did not appear in person through a representative or through an attorney, after such Respondent having been served a copy of the Notice and Order of Hearing filed by the Department herein on February 21, 2014 (the "Notice of Hearing"), setting the March 10, 2014, hearing date and time in Case No. 14-0026-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act (the "APA"), 75 O.S. §§ 308a-323, by personal service on the Respondent's Registered Agent,

Paracorp Incorporated, 613 S.W. 112th Street, Oklahoma City, Oklahoma 73170, through a Private Process Server, Document Retrieval Services, Inc., 613 S.W. 112th Street, Oklahoma City, Oklahoma 73170, a representative of which named Jack Beall, PS# PSS-2012-50, signed a Proof of Service Affidavit attesting to personal service delivery thereof on February 21, 2014.

The Department's General Counsel Roy John Martin, announced that he had not heard from or spoken to the Respondent about its appearance at the hearing in person through a representative or through an Attorney. Continuing, Mr. Martin indicated that he wished to secure, in the absence of the Respondent who had an opportunity for a hearing and for whom he had good service, a judgment by default pursuant to 75 O.S. §309(E). Accordingly, the Independent Hearing Examiner announced from the bench that he was taking this matter under advisement.

After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the March 10, 2014 hearing, and reviewing the proposed order filed by Independent Hearing Examiner, Bryan Neal; the Administrator of Consumer Credit issues the following findings, conclusions and orders:

JURISDICTION AND AUTHORITY

1. As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted pursuant to Article II of the Administrative Procedures Act. 75 O.S. § 314.1.

2. The Administrator of Consumer Credit (Administrator) may issue an emergency order, pending the final outcome of an individual proceeding, that includes the suspension of a

license instanter or a cease and desist instanter if the public health, safety, or welfare imperatively requires such action. An emergency order shall include an order for a hearing that is scheduled within twenty (20) days from the date of service of the emergency order. The Administrator shall serve an emergency order by certified mail, return receipt requested, or by personal delivery. OAC 160:3-1-4(j).

3. The Administrator of Consumer Credit is charged with the administrative authority to administer, interpret and enforce the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, 59 O.S. §§ 2095-2095.26. 59 O.S. § 2095.1 (2).

4. In order to ensure the effective supervision and enforcement of the SAFE Act, the Administrator may, after notice and hearing pursuant to Article II of the Administrative Procedures Act, 75 O.S. §§ 308a et seq., impose any or any combination of the following penalties for violations of the SAFE Act:

(a) deny, suspend, revoke, censure, place on probation or decline to renew a license issued pursuant to the SAFE Act for a violation of the SAFE Act, any rules promulgated pursuant to the SAFE Act and any order of the Administrator issued pursuant to the SAFE Act;

(b) deny, suspend, revoke, censure, place on probation or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of the SAFE Act or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(c) order restitution against entities or individuals subject to the SAFE Act for violations of the SAFE Act; or

(d) issue orders or directives under the SAFE Act as follows:

(i) order or direct entities or individuals subject to the SAFE Act to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(ii) order or direct entities or individuals subject to the SAFE Act to cease any harmful activities or violations of the SAFE Act, including immediate temporary orders to cease and desist;

(iii) enter immediate temporary orders to cease business under a license issued pursuant to the authority of the SAFE Act if the Administrator determines that such license was erroneously granted or the licensee is currently in violation of the SAFE Act;

(iv) order or direct such other affirmative action as the Administrator deems necessary, or

(v) impose a civil penalty of not less than One Hundred Dollars ($100.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each violation of the SAFE Act against a licensee or any other entity or individual subject to the SAFE Act, not to exceed Five Thousand Dollars ($5,000.00) for all violations resulting from a single incident or transaction. 59 O.S. § 2095.17.

FINDINGS OF FACT

The Administrator of Consumer Credit finds that the following facts were proven through the Respondent's default by clear and convincing evidence:

1. The proceedings in this matter were conducted in accordance with the provisions of the

Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, 59 O.S. §§ 2095-2095.26 and Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. The Respondent, who did not appear at the hearing on March 10, 2014, at 1:30 p.m., in person through a representative or through an attorney, received notice of the hearing in this matter set for March 10, 2014, at 1:30 p.m., by personal service on the Respondent's Registered Agent, Paracorp Incorporated, 613 S.W. 112th Street, Oklahoma City, Oklahoma 73170, through a Private Process Server, Document Retrieval Services, Inc., 613 S.W. 112th Street, Oklahoma City, Oklahoma 73170, a representative of which named Jack Beall, PS# PSS-2012-50, signed a Proof of Service Affidavit attesting to personal service delivery thereof on February 21, 2014.

3. The licensing system of record for mortgage brokers, mortgage lenders and mortgage loan originators in the State of Oklahoma is Nationwide Mortgage Licensing System and Registry (NMLS).

4. As of February 20, 2014, the Respondent is licensed as a mortgage lender in the State of Oklahoma pursuant to the SAFE Act with the following licensing information indicated by NMLS:

(a) Oklahoma license number ML002546;

(b) NMLS unique identifier number/company ID 239349

(c) Mailing address of record at 1022 Carolina Boulevard, Isle of Palms, South Carolina 29451.

5. The Respondent was previously licensed as a mortgage broker, license number MB002280, in the State of Oklahoma during the time period of August 20, 2012 through

December 18, 2013.

6. The Respondent transitioned from a licensed mortgage broker to a licensed mortgage lender in the State of Oklahoma on December 18, 2013.

7. The Respondent is a registered foreign limited liability company with Oklahoma Secretary of State filing number 3712369743.

8. On January 8, 2013, Consumer Credit Examiner, Fred Britt, submitted via electronic mail to the Respondent's electronic mail address of record, michelle.southern@ikonfg.com, a mortgage broker examination information request to the Respondent for purposes of initiating a mortgage broker examination of the Respondent.

9. The mortgage broker examination information request submitted on January 8, 2013 included a cover letter, an Institutional Information Request and a Data Request.

10. The Respondent failed to provide the information requested by the mortgage broker examination information request dated January 8, 2013.

11. Consumer Credit Examiner Fred Britt submitted a follow-up mortgage broker examination information request to the Respondent by electronic mail dated February 11, 2013 and was addressed to Ann Austin, Operations Manager for the Respondent at ann.austin@ikonfg.com.

12. Ms. Austin replied to Mr. Britt's mortgage broker examination information request by electronic mail on February 12, 2013 and asked what information was needed for the request.

13. Mr. Britt responded to Ms. Austin by electronic mail on February 12, 2013 and instructed the Respondent to complete the mortgage broker examination information request.

14. Ms. Austin replied to Mr. Britt via electronic mail on March 4, 2013 requesting the information that was needed from the mortgage broker examination information request.

15. Mr. Britt responded to Ms. Austin via electronic mail on May 3, 2013 for the Respondent to complete the mortgage broker examination information request.

16. Mr. Britt submitted an additional mortgage broker examination information request to Ms. Austin via electronic mail on July 3, 2013.

17. Ms. Austin replied to Mr. Britt via electronic mail on July 10, 2013 and stated that the Respondent was working on the mortgage broker examination information request.

18. Mr. Britt submitted an electronic mail message to Ms. Austin on August 8, 2013 indicating that the requested mortgage broker examination information had not been received by the Petitioner.

19. Ms. Austin replied to Mr. Britt via electronic mail on August 8, 2013 asking Mr. Britt if the mortgage broker examination information request response needed to be mailed.

20. Mr. Britt responded to Ms. Austin that the mortgage broker examination information request response could be submitted via electronic mail.

21. Ms. Austin replied to Mr. Britt via electronic mail on August 8, 2013 that the Respondent had not closed any loans in Oklahoma as of that date to her knowledge, but was visiting with the Respondent's compliance officer on that day to determine the information the Respondent needed to submit.

22. Mr. Britt responded to Ms. Austin on August 8, 2013 and indicated that the Respondent complete the mortgage broker examination request questionnaire and state "not applicable" in response to any questions that did not apply to the Respondent.

23. Ms. Austin responded to Mr. Britt via electronic mail on August 8, 2013 that the Respondent had not closed any loans in Oklahoma as of that date. Ms. Austin further stated that the Respondent obtained a license because the Respondent thought it had a branch office being established and requested the information that was needed from the Respondent.

24. Mr. Britt responded to Ms. Austin via electronic mail on August 8, 2013 for the Respondent to complete the questionnaire contained in the mortgage broker examination information request and submit the questionnaire to his attention via electronic mail.

25. Ms. Austin replied to Mr. Britt via electronic mail on August 8, 2013 that the questionnaire would be completed and submitted on that date.

26. Ms. Austin replied to Mr. Britt via electronic mail on August 8, 2013 that she was getting assistance concerning the mortgage broker examination request and asked Mr. Britt the deadline for submitting a response to the mortgage broker examination request.

27. Mr. Britt responded to Ms. Austin via electronic mail on August 9, 2013 and indicated that the response deadline had passed and that a response was needed as soon as possible regarding the information requested in the mortgage broker examination request questionnaire.

28. Mr. Britt responded to Ms. Austin via electronic mail on August 22, 2013 and stated that the completed questionnaire had not been received as requested and asked for a time frame as to when the questionnaire would be submitted.

29. Ms. Austin replied that the questionnaire should be received by the following Monday, August 26, 2013.

30. Mr. Britt responded to Ms. Austin via electronic mail on September 4, 2013 and

stated that the questionnaire had not been received.

31. Ms. Austin replied to Mr. Britt via electronic mail on September 4, 2013 and stated that she thought the questionnaire response was submitted the previous week, but would be submitted again.

32. As of February 20, 2014, the Respondent has failed to provide the information requested by the Petitioner's mortgage broker examination information request.

33. Since the Respondent has failed to make available to the Administrator, upon request, any books and records relating to the requirements of the SAFE Act and since the Respondent has failed to make or compile reports or prepare other information as directed by the Administrator in order to carry out the purposes of examination of 59 O.S. § 2095.23, including but not limited to accounting compilations, information lists and data concerning loan transactions in a format prescribed by the Administrator or such other information deemed necessary to carry out the purposes of examination of 59 O.S. § 2095.23, the Respondent is hereby found to be a licensed mortgage lender that has violated 59 O.S. §§ 2095.18(8) and 2095.23(D) and (E).

CONCLUSIONS OF LAW

The Administrator of Consumer Credit concludes the following:

1. Article II of the Administrative Procedures Act, 75 O.S., §309(E), provides that informal disposition may be made of any individual proceeding by default.

2. The Respondent has violated 59 O.S. §§ 2095.18(8) and 2095.23(D)and (E) by failing to make available to the Administrator, upon request, any books and records relating to the requirements of the SAFE Act and by failing to make or compile reports or prepare other

information as directed by the Administrator in order to carry out the examination purposes of 59 O.S. § 2095.23, including, but not limited to, accounting compilations, information lists and data concerning loan transactions in a format prescribed by the Administrator or such other information deemed necessary to carry out the examination purposes of 59 O.S. § 2095.23.

ORDER

Based upon the findings of fact and conclusions of law in this individual proceeding and based upon the recommendation of the Independent Hearing Examiner, the Administrator of Consumer Credit issues the following orders:

1. The Respondent, having been found to be a licensed mortgage lender in the State of Oklahoma that has violated 59 O.S. §§ 2095.18(8) and 2095.23(D) and (E), by failing to make available to the Administrator, upon request, any books and records relating to the requirements of the SAFE Act and by failing to make or compile reports or prepare other information as directed by the Administrator in order to carry out the examination purposes of 59 O.S. § 2095.23, including, but not limited to, accounting compilations, information lists and data concerning loan transactions in a format prescribed by the Administrator or such other information deemed necessary to carry out the examination purposes of 59 O.S. § 2095.23., should be fined in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500.00) as a civil penalty for such violation and the Respondent should have its mortgage lender license immediately SUSPENDED until such time, if any, as the broker examination information required for examination purposes under 59 O.S. § 2095.23 has actually been provided by the Respondent to the Administrator including, but not limited to, accounting compilations,

information lists and data concerning loan transactions in a format prescribed by the Administrator or such other information deemed necessary by the Administrator and the Respondent has fully paid the fine referred to above to the Department.

2. The Respondent, having been found to be a licensed mortgage lender in the State of Oklahoma that has violated 59 O.S. §§ 2095.18(8) and 2095.23(D) and (E) by failing to make available to the Administrator, upon request, any books and records relating to the requirements of the SAFE Act and by failing to make or compile reports or prepare other information as directed by the Administrator in order to carry out the examination purposes of 59 O.S. § 2095.23, including, but not limited to, accounting compilations, information lists and data concerning loan transactions in a format prescribed by the Administrator or such other information deemed necessary to carry out the examination purposes of 59 O.S. § 2095.23., should be issued a permanent Cease and Desist Order to immediately cease and desist from engaging or offering to engage in any new business as a mortgage lender under 59 O.S. § 2095.2 by taking any applications for any residential mortgage loan or by making any residential mortgage loan while under the suspension of its mortgage lender license as referred to above and to permanently continue to so cease and desist until such time, if any, as the broker examination information required for examination purposes under 59 O.S. § 2095.23 has actually been provided by the Respondent to the Administrator as heretofore requested including, but not limited to, accounting compilations, information lists and data concerning loan transactions in a format prescribed by the Administrator or such other information deemed necessary by the Administrator and the Respondent has fully paid the fine referred to above to the Department.

3. As the Respondent is not the prevailing party in this matter, the Respondent shall

be assessed hearing costs incurred in this matter, in the amount of Four Hundred Nine Dollars 10/100 ($409.10), as authorized pursuant to 59 O.S., § 2095.17(D).

So ordered this 10th day of April, 2014.

Scott Lesher
Administrator of Consumer Credit
State of Oklahoma