

**BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA**

STATE OF OKLAHOMA,)
ex rel., DEPARTMENT OF)
CONSUMER CREDIT,)
)
Petitioner)
)
v.)
)
HOMETOWN LENDERS, INC.,)
)
Respondent)

FILED JANUARY 29, 2024
STATE OF OKLAHOMA
DEPARTMENT OF
CONSUMER CREDIT

Case No. 23-0097-DIS

FINAL AGENCY ORDER

This matter was heard on the 20th day of December, 2023, at approximately 9:40 a.m., after allowing additional time for the named Respondent, its representative(s), and/or its attorneys, to attend the above numbered and entitled cause (scheduled to begin at 9:30 a.m.), came on for emergency hearing at the Office of the Oklahoma Department of Consumer Credit, 629 N.E. 28th Street, Oklahoma City, Oklahoma 73105.

The State of Oklahoma, *ex rel.* Oklahoma Department of Consumer Credit (“Petitioner”), was represented by Petitioner’s Chief Enforcement Counsel, John T. Coyne, and Respondent, Hometown Lenders, Inc., a foreign, for-profit business corporation under the jurisdiction of the State of Alabama, who is licensed as a Oklahoma Mortgage Lender identified further by Petitioner as “Hometown Lenders Inc., ML011629” (“Respondent”) did not personally appear through a representative or through an attorney. Respondent’s mailing address of record is 350 The Bridge Street, Suites 116, 200 & 202, Huntsville, AL 35806. Respondent’s representatives have been mailed a copy of the Amended Emergency Order and Notice of Hearing filed by Peitioner herein on December 6, 2023 (the “Amended Emergency Order and Notice of

Hearing”), in Case No. 23-0097-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323 (the “APA”), to Respondent through a representative of Respondent’s Registered Agent in the State of Oklahoma, Incorp Services Inc. (“Respondent’s Registered Agent”). Respondent’s Registered Agent’s address is Braniff Building, 324 N. Robinson Ave., Suite 100, Oklahoma City, OK 73102. On December 12, 2023, the Amended Emergency Order and Notice of Hearing was mailed via first-class U.S. Mail certified with return requested and was delivered to Respondent in care of Respondent’s Registered Agent, by a representative of the U.S. Postal Service as verified through the certified return receipt number 70171070000028715653 signed by a representative of Respondent’s Registered Agent named Caily Castill on December 9, 2023, on behalf of Respondent which has been filed herein.

Petitioner’s Chief Enforcement Counsel, John T. Coyne, indicated that he had not heard from or spoken to Respondent or its representatives about any appearance at the hearing in person through its representatives or through an attorney. Mr. Coyne presented two witnesses to testify in the Emergency Hearing: Consumer Credit Examiner Scott Ferguson, and Legal Administrative Programs Officer Anissa Campbell.

It is uncontested that Examiner Scott Ferguson conducted an examination of Respondent on September 9, 2023, that during the course of the examination, Mr. Ferguson reviewed Respondent’s provided exam documentation as well as state and federal documents, information submitted by Respondent to the Nationwide Mortgage Licensing System and Registry (NMLS) for compliance, consumer provided information and documentation, and that during the course of the examination, violations were found. Further, it is uncontested that Respondent was non-responsive to Mr. Ferguson’s requests for information lists containing data concerning loan

transactions and complete payroll records, and that Respondent serviced loans without reporting servicing information on NMLS.

Upon being duly sworn, Mr. Ferguson testified that he had been a Consumer Credit Examiner for seven years and in that period of time that he had conducted over 150 mortgage examinations. According to Mr. Ferguson, he met with Respondent's employee - Compliance Manager, Heather Brooks, for an examination in which he requested required Respondent books and records from Respondent. Mr. Ferguson indicated that he requested information, that Respondent did not produce the requested records, and Respondent did not provide information required by 59 O.S. § 2095.23.

Through his testimony (summarized), Mr. Ferguson indicated that Respondent, until its office closures, maintained three (3) Petitioner-licensed business offices in Oklahoma, all three of which, subsequently, were permanently closed without Respondent providing at least thirty (30) days advance notice to the NMLS or to Petitioner as required by Oklahoma Administrative Code (OAC) 160:55-3-9.1.

Mr. Coyne next presented Legal Administrative Programs Officer Anissa Campbell to testify. Upon being duly sworn, Ms. Campbell testified that she is Petitioner's Legal Administrative Programs Officer, that she is a Paralegal, that she has worked for Petitioner for six years, and her duties include preparing subpoenas, arranging personal service of subpoenas and orders, and other matters. Ms. Campbell was presented Petitioner's Exhibit A for identification and authentication.

Exhibit A is a document entitled "Affidavit of Service of Amended Emergency Order and Notice of Hearing for Hometown Lenders Inc., Case No. 23-0097-DIS" dated December 19, 2023. This was document signed and sworn to by Petitioner's Chief Enforcement Attorney John

T. Coyne, which represented that on December 6, 2023, Mr. Coyne mailed the Amended Emergency Order and Notice of Hearing to Respondent's Registered Agent, InCorp Services Inc., Braniff Building, 324 North Robinson Ave., Suite 100, Oklahoma City, OK 73102, by certified United States mail, return receipt requested, and that the certified mail receipt and return receipt showing the Amended Emergency Order and Notice of Hearing was accepted at 324 North Robinson Ave., Oklahoma City, OK 73102 on December 9, 2023. Ms. Campbell identified the Affidavit as having been sworn to before her as a Notary Public. There being no objection, Petitioner's Exhibit A was admitted into evidence.

Mr. Coyne next presented Ms. Campbell with Petitioner's Exhibit B for identification and authentication. Exhibit B is a photocopy of a U. S. Postal Service Certified Mail Domestic Return Receipt (Green Card) addressed to Hometown Lenders, Inc. c/o InCorp Services Inc., Braniff Building, 324 N. Robinson Ave., Ste. 100, Oklahoma City, OK 73102, Article No. 70171070000028715653, signed by a representative of Respondent's Registered Agent named Caily Castill, acknowledging receipt of the certified mailing of the Amended Emergency Order and Notice of Hearing at the Office of Respondent's Registered Agent in Oklahoma City, Oklahoma, together with a photocopy of a U.S. Postal Service Certified Mail Receipt dated December 6, 2023, for Article No. 70171070000028715653. Article No. 70171070000028715653 matches the Article Number on the U.S. Postal Service Certified Mail Domestic Return Receipt also depicted on Petitioner's Exhibit B. There being no objection, Petitioner's Exhibit B was admitted into evidence.

Mr. Coyne next presented Ms. Campbell with Petitioner's Exhibit C for identification. Exhibit C is a document labeled as USPS Tracking Results for Tracking No. 70171070000028715653, which provides that the item was delivered and picked up at an

Oklahoma City, OK postal facility on December 9, 2023. Ms. Campbell identified Petitioner's Exhibit C as the USPS Tracking sheet with the same article numbers as Petitioner's Exhibit B green card she received, indicating that Respondent's Registered Agent received the Article No. 70171070000028715653 which Article item contained Respondent's Amended Emergency Order and Notice of Hearing. There being no objection, Respondent's Exhibit C was admitted into evidence.

Mr. Coyne indicated that he wished to secure, in the absence of Respondent who had an opportunity for a hearing and for whom he believed he had good service, an immediate temporary cease and desist order by default pursuant to 75 O.S. § 309(E). Further, Mr. Coyne indicated that Petitioner's recommendation in this matter is that an immediate temporary cease and desist order be issued and be in place to order Respondent to cease and desist from engaging and/or offering to engage as a mortgage lender in the State of Oklahoma pending the final outcome of proceedings instituted by Petitioner with the cease and desist order to remain in place until such time as Petitioner agrees to allow or disallow Respondent to engage and/or offer to engage as a mortgage lender in the State of Oklahoma, and that Respondent pay for all of the costs of the Emergency Hearing to Petitioner.

After reviewing the administrative record of this individual proceeding, reviewing the evidence presented at the December 20, 2023 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

The Administrator of Consumer Credit (Administrator) has administrative authority to administer, interpret and enforce the Oklahoma Secure and Fair Enforcement for Mortgage

Licensing Act, 59 O.S. §§ 2095 *et seq.* (SAFE Act). 59 O.S. § 2095.1(2).

Penalties

(A). In order to ensure the effective supervision and enforcement of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the Administrator of Consumer Credit may, after notice and hearing pursuant to Article II of the Administrative Procedures Act, impose any or any combination of the following penalties:

(1.) Deny, suspend, revoke, censure, place on probation or decline to renew a license for a violation of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, any rules promulgated pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and any order of the Administrator or an independent hearing examiner issued pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act;

(2.) 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 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3.) Order restitution against entities or individuals subject to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act for violations of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act; or

(4.) Issue orders or directives under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act as follows:

- (a) order or direct entities or individuals subject to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act to cease and desist from conducting business, including immediate temporary orders to cease and desist,
- (b) order or direct entities or individuals subject to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act to cease any harmful activities or violations of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, including immediate temporary orders to cease and desist,
- (c) enter immediate temporary orders to cease business under a license issued pursuant to the authority of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act if the Administrator or an independent hearing examiner determines that such license was erroneously granted or the licensee is currently in violation of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act,
- (d) order or direct such other affirmative action as the Administrator or an independent hearing examiner deems necessary, or
- (e) 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 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act against a licensee or any other entity or individual subject to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, not to exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction.

(B). Any immediate temporary order to cease and desist issued pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act shall comply with the requirements for emergency orders under Article II of the Administrative Procedures Act.

(C). Any administrative order or settlement agreement imposing a civil penalty pursuant to this section may be enforced in the same manner as civil judgments in this state. The Administrator may file an application to enforce an administrative order or settlement agreement in the district court of Oklahoma County.

(D). The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. The independent hearing examiner shall have authority to exercise all powers granted by Article II of the Administrative Procedures Act in conducting hearings. The independent hearing examiner shall have authority to recommend penalties authorized by the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and issue proposed orders, with proposed findings of fact and proposed conclusions of law, to the Administrator pursuant to Article II of the Administrative Procedures Act. The Administrator shall review the proposed order and issue a final agency order in accordance with Article II of the Administrative Procedures Act. Any person aggrieved by a final agency order of the Administrator may obtain judicial review in accordance with the Oklahoma Administrative Procedures Act. The venue of any such action shall be in the district court of Oklahoma County. The costs of the hearing examiner may be assessed against the respondent, unless the respondent is the prevailing party. 59 O.S. § 2095.17.

FINDINGS OF FACT

The Administrator finds that the following facts were proven through 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 et seq. and Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. Respondent failed to appear in person through its representative(s) or through an attorney at the Emergency Hearing on December 20, 2023, at the scheduled time of 9:30 a.m. or later that same morning when this case was heard at approximately 9:40 a.m., Respondent having received notice of the Emergency Hearing in this matter set for December 20, 2023, at 9:30 a.m., did not personally appear through a representative(s) or through an attorney, after such representatives of Respondent having been mailed a copy of the Amended Emergency Order and Notice of Hearing filed by Petitioner herein on December 6, 2023, in Case No. 23-0097-DIS, pursuant to the requirements of Article II of the APA, 75 O.S. §§ 308a-323, by first-class U.S. Mail certified with return requested to Respondent through a representative of Respondent's Registered Agent in the State of Oklahoma, Incorp Services Inc., whose address is Braniff Building, 324 N. Robinson Ave., Suite 100, Oklahoma City, OK 73102 on December 12, 2023, as verified through the certified return receipt number 70171070000028715653 signed by a representative of Respondent's Registered Agent, named Caily Castill, on December 9, 2023, on behalf of Respondent which has been filed herein.

3. Respondent is a foreign for profit business corporation under the jurisdiction of the State of Alabama, Oklahoma Secretary of State filing number 2312681246, active filing status.

4. 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 ML011629;
- (b) NMLS unique identifier number/company ID 65084;
- (c) Mailing address of record is at 350 The Bridge Street, Suites 116, 200 & 202, Huntsville, AL 35806.

5. On September 9, 2023, Scott Ferguson, Consumer Credit Examiner, conducted an examination of Respondent. During the course of the examination, Mr. Ferguson reviewed Respondent's provided exam documentation as well as state and federal documents, information submitted by Respondent to NMLS for compliance, and consumer provided information and documentation. During the course of the examination, violations were found.

6. Respondent was non-responsive to Mr. Ferguson's requests for information lists containing data concerning loan transactions and complete payroll records.

7. Respondent closed three (3) locations licensed with Petitioner without notification to Petitioner or NMLS at least thirty (30) days prior to closure.

8. Respondent serviced loans without reporting servicing information on NMLS.

9. As of the date of the Amended Emergency Order and Notice of Hearing, December 6, 2023, Respondent books and records requested by Petitioner to conduct Respondent's examination had not been provided by Respondent.

CONCLUSIONS OF LAW

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

1. Respondent has violated 59 O.S. § 2095.23(A)(4), (B), (D), (E)(2) and (3) by failing to provide information lists containing data concerning loan transactions and complete payroll records per Petitioner's requests.

2. Respondent has violated OAC 160:55-3-9.1(b) by closing locations licensed with Petitioner without notification to Petitioner or NMLS at least thirty (30) days prior to closure.

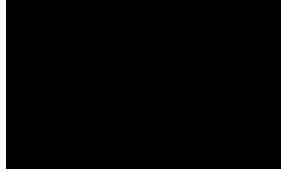
3. Respondent has violated 59 O.S. § 2095.18(10) by failing to report servicing activity for loans held by Respondent to NMLS.

4. Respondent is hereby found to be 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 ML011629; (b) NMLS unique identifier number/company ID 65084; (c) mailing address of record at 350 The Bridge Street, Suites 116, 200 & 202, Huntsville, AL 3580, that has violated 59 O.S. §2095.23(A)(4), (B), (D), (E)(2) and (3) by failing to provide information lists containing data concerning loan transactions and complete payroll records per Petitioner's request, that Respondent has violated OAC 160:55-3-9.1(b) by closing locations licensed with Petitioner without notification to Petitioner or NMLS at least thirty (30) days prior to closure, and that Respondent has violated 59 O.S. § 2095.18(10) by failing to report servicing activity for loans held by Respondent to NMLS.

5. Having been found to be in default, an immediate temporary Order to cease and desist from engaging and/or offering to engage as a mortgage lender in the State of Oklahoma pending the final outcome of proceedings instituted by Petitioner is hereby issued against Respondent.

6. Accordingly, as Respondent through its default is not the prevailing party in this Emergency Hearing matter, Respondent is hereby assessed all of the costs of the Independent Hearing Examiner incurred in this matter in the amount of \$127.50 as authorized in 59 O.S. § 2095.17(D) payable to Petitioner.

So ordered this 25th day of January, 2024.



State of Oklahoma