BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA

FILED
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Department of
Consumer Credit

STATE OF OKLAHOMA, ex rel., DEPARTMENT OF CONSUMER CREDIT	)	
Petitioner	)	
v.	)	Case No. 11-0007-DIS
JONATHON G. FLEEGE	)	
Respondent	)	

FINAL AGENCY ORDER

1. This matter was heard August 22, 2011 at 1:30 p.m. before Bryan Neal, Assistant Attorney General and Independent Hearing Examiner appointed by the Administrator of Consumer Credit. The Petitioner, State of Oklahoma, ex rel., Department of Consumer Credit, appeared and was represented by its attorney, Roy John Martin. The Respondent, Jonathon G. Fleege, appeared pro se after having been mailed a copy of the Notice of Hearing filed by the Department on May 23, 2011, by certified mail, return receipt requested pursuant to the requirements of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, 59 O.S. §§ 2095-2095.26 (the "SAFE Act") which Act became effective on July 1, 2009, OAC 160:55-9-2, OAC 160:55-3-3.1 and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323 and after having been mailed a written Continuance thereof by certified mail with return receipt requested on July 11, 2011, the receipt of which Continuance on July 14, 2011, was

evidenced by a copy of the return receipt signed by the Respondent on July 14, 2011, which return receipt was on file with the Department. The Respondent failed to withdraw his renewal application within thirty (30) days of his notification by the Department that he failed to meet the requirements of the SAFE Act.

2. After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the August 22, 2011 hearing and reviewing the proposed order filed November 4, 2011 by Independent Hearing Examiner, Bryan Neal, the Administrator of Consumer Credit issues the following findings, conclusions and orders:

JURISDICTION AND AUTHORITY

1. The Department of Consumer Credit acting by and through the Administrator of Consumer Credit (the "Administrator")has jurisdiction of this cause pursuant to the provisions of the SAFE Act, OAC 160:55-9-2, OAC 160: 55-3-3.1 and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. The Administrator shall not issue a mortgage loan originator license if the Administrator finds that an applicant has been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign or military court:

a. during the seven-year period preceding the date of the

application for licensing and registration; or

b. at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering. 59 O.S. § 2095.7.

3. The Administrator may, after notice and hearing pursuant to Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323, decline to renew a license if an applicant fails at any time to meet the requirements of the SAFE Act. 59 O.S. § 2095.17 (A)(2).

4. A Notice of Hearing shall be filed if an applicant for license renewal that fails to meet the requirements of the SAFE Act does not request a withdrawal of the application within thirty (30) days of notification by the Department that such applicant fails to meet the requirements of the SAFE Act. OAC 160: 55-3-3.1 (b)(1)(A).

5. The proceedings were conducted in accordance with the provisions of the SAFE Act, OAC 160: 55-9-2, OAC 160:55-3-3.1 and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323.

6. That the Respondent seeks a renewal of a Mortgage Loan Originator's License from the Department under the requirements of the SAFE Act.

FINDINGS OF FACT

The Administrator of Consumer Credit finds the following facts were proven by clear and convincing evidence:

1. The Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, 59 O.S. §§ 2095-2095.26 (the "SAFE Act")became effective on July 1,2009,and includes requirements for Oklahoma licensure as an Oklahoma Mortgage Loan Originator, as well as for renewal(s) thereof, including but not limited to, a requirement to successfully complete a criminal background check.

2. The Respondent was licensed as a Mortgage Loan Originator in the State of Oklahoma on March 17, 2010.

3. In connection with the Respondent's original application for a mortgage loan originator license in the State of Oklahoma, the Respondent answered "yes" to an application question concerning whether the Respondent had ever been convicted of or pled guilty or nolo contendere in a domestic, foreign or military court to any felony and the Respondent provided a copy of the Judgment and Sentence, all time suspended, in the Tulsa County, Oklahoma District Court Case Number CF-06-3709, dated February 8, 2008, indicating that the Respondent had pled guilty to and been convicted of the felony crime of possession of controlled drug in jail in violation of 57 O.S. § 21-8.

4. On August 9, 2010, a hold was placed on any future renewal of the Respondent's mortgage loan originator license by the Department because of the Respondent's felony conviction

dated February 8, 2008.

5. On January 4, 2011, the Respondent submitted a request to renew his Oklahoma mortgage loan originator license through the Nationwide Mortgage Licensing System and Registry ("NMLSR") at www.statemortgageregistry.com together with his payment for license renewal.

6. On February 16, 2011, notification was sent to the Respondent via certified U. S. Mail, return receipt requested and delivered February 23, 2011, indicating that because of a prior felony conviction within seven (7) years from the date of the license application, the Respondent was prohibited from being licensed as a mortgage loan originator under the SAFE Act.

7. The February 16, 2011 notification indicated the Respondent could withdraw his license application and receive a refund of the license fee by submitting written notification within thirty (30) days of the date of the notification.

8. The February 16, 2011 notification also indicated that a Notice of Hearing shall be filed regarding the Respondent's application if the Respondent declined to withdraw the application within the required period of time.

9. The Respondent informed the Petitioner that he declined to withdraw the application and wished to proceed with a hearing.

10. The Respondent in seeking leniency of which he knows of

none in law, admitted that he had received no pardon of his felony conviction dated February 8, 2008,that he had not entered any "Alford Plea" in connection with his felony conviction dated February 8, 2008, and that he did not receive any deferred sentence in connection with his felony conviction dated February 8, 2008.

CONCLUSIONS OF LAW

The Administrator of Consumer Credit concludes that based upon the evidence and testimony in this individual proceeding that:

1. The Department of Consumer Credit acting by and through the Administrator has jurisdiction of this cause pursuant to the provisions of the SAFE Act, OAC 160:55-9-2, OAC 160: 55-3-3.1 and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. The Administrator shall not issue a mortgage loan originator license if the Administrator finds that an applicant has been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign or military court:

a. during the seven-year period preceding the date of the application for licensing and registration; or

b. at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering. 59 O.S. § 2095.7.

3. The Administrator may, after notice and hearing pursuant to Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323, decline to renew a license if an applicant fails at any time to meet the requirements of the SAFE Act. 59 O.S. § 2095.17 (A)(2).

4. A Notice of Hearing shall be filed if an applicant for license renewal that fails to meet the requirements of the SAFE Act does not request a withdrawal of the application within thirty (30) days of notification by the Department that such applicant fails to meet the requirements of the SAFE Act. OAC 160: 55-3-3.1 (b)(1)(A).

5. The proceedings were conducted in accordance with the provisions of the SAFE Act, OAC 160: 55-9-2, OAC 160:55-3-3.1 and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323.

6. The Department has met its burden of proof in this matter by clear and convincing evidence that the Respondent has violated 59 O.S. §§ 2095.7(2)(a)and 2095.18 (8) by failing to comply with the SAFE Act and/or rules promulgated under the SAFE Act for pleading guilty to and being convicted of the felony crime of possession of controlled drug in jail on February 8, 2008, which date occurred during the seven (7) year period preceding the date of application for licensing.

ORDER

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

1. The mortgage loan originator license renewal application of the Respondent filed under the SAFE Act is denied and a mortgage loan originator license renewal shall not be issued to the Respondent.

2. The Respondent shall immediately cease and desist from engaging in any activities for which license as a mortgage loan originator is required by the Department under the SAFE Act until such time, if any, that the Respondent may properly re-qualify and re-apply for licensure as a mortgage loan originator.

So ordered this 15th day of November 2011.

Scott Lesher
Administrator of Consumer Credit
State of Oklahoma