

BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT  
STATE OF OKLAHOMA



STATE OF OKLAHOMA, )  
ex rel., DEPARTMENT OF )  
CONSUMER CREDIT, )  
 )  
Petitioner )  
 )  
v. )  
 )  
RICHARD LEE WHITEWATER, )  
 )  
Respondent )

Case No. 17-0093-DIS

**FINAL AGENCY ORDER**

This matter was heard on the 18th day of May, 2017, at approximately 10:17 a.m., the above numbered and entitled cause (scheduled for 9:30 a.m.) came on for hearing at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56<sup>th</sup> Street, Suite 240, Oklahoma City, Oklahoma 73112.

The State of Oklahoma *ex rel.* Oklahoma Department of Consumer Credit (“Petitioner”), was represented by Petitioner’s General Counsel, J. Steven Coates, and Respondent, Richard Lee Whitewater, whose mailing address of record is 604 W. 38<sup>th</sup> Street, Sand Springs, OK 74063 (“Respondent”), did not appear in person or through an attorney, after such Respondent having been mailed a copy of the Notice and Order of Hearing filed by Petitioner herein on April 3, 2017 (the “Notice of Hearing”), in Case No. 17-0093-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act (the “APA”), 75 O.S. §§ 308a-323, by first class U.S. Mail certified with return receipt requested to Respondent, at the address given to Petitioner by Respondent at 604 W. 38<sup>th</sup> Street, Sand Springs, OK 74063, and was delivered to Respondent by

a representative of the U.S. Postal Service as verified through the certified return receipt signed by Respondent as the Addressee on April 6, 2017, which receipt has been filed herein.

Petitioner's General Counsel J. Steven Coates, announced that he had not heard from or spoken to Respondent about his appearance at the hearing in person or through an attorney. Mr. Coates indicated that Petitioner wished to secure, in the absence of 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). Further, Mr. Coates indicated that Petitioner was recommending in this matter that Respondent pay a civil penalty of Five Hundred Dollars (\$500.00), that Respondent also pay a license renewal late fee of One Hundred Ninety Dollars (\$190.00), that Respondent pay for the costs of the hearing, that Respondent's license as a mortgage loan originator, be and remain suspended, until such time as all fees, penalties, fines and hearing costs are all fully paid to Petitioner, and that a Cease and Desist Order be issued against Respondent to cease and desist from acting as an Oklahoma licensed mortgage loan originator until such time as all fees, penalties, fines and hearing costs are all fully paid to Petitioner.

Accordingly, the Independent Hearing Examiner announced from the bench that his recommendation in this matter to Petitioner's Administrator would be that Respondent pay a civil penalty of Five Hundred Dollars (\$500.00), that Respondent also pay a renewal late fee of One Hundred Ninety Dollars (\$190.00), that Respondent's license as a mortgage loan originator be and remain suspended until such time as all fees, penalties, fines and hearing costs are all fully paid, and that a Cease and Desist Order be issued against Respondent to cease and desist from acting as an Oklahoma licensed mortgage loan originator until such time as all fees, penalties, fines and hearing costs are all fully paid to Petitioner, and as Respondent is not the prevailing

party in this matter, that Respondent pay for the costs of the hearing (being those costs of the Independent Hearing Examiner incurred in this matter as authorized in 59 O.S. § 2095.17(D)) to the Department.

After reviewing the administrative record of this individual proceeding, reviewing the evidence presented at the May 18, 2017 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.<sup>1</sup>

### **JURISDICTION AND AUTHORITY**

The Administrator of Consumer Credit (the “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.*, 59 O.S. § 2095.1 (2).

#### **Penalties**

1. 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:

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<sup>1</sup> Subsequent to the institution of these formal disciplinary proceedings against the Respondent through the issuance of the Notice of Hearing to the Respondent, and in the absence of any stipulation, agreed settlement, or consent agreement, having been entered into with the Department, Respondent tendered and paid late license renewal fees of \$190.00 for the 19 days that he delayed in requesting renewal of his license to Petitioner, and Respondent paid a \$250.00 civil penalty without the benefit of having first entered into a stipulation, agreed settlement, or consent agreement, with Petitioner.

(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 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 or through an attorney at the hearing on May 18, 2017, at the scheduled time of 9:30 a.m. or later that same morning when his case was heard at approximately 10:17 a.m., Respondent having received notice of the hearing in this matter set for May 18, 2017, at 9:30 a.m., by first class U.S. Mail, certified with return receipt requested through mail-delivery of a copy of the original Notice of Hearing filed in this matter on April 3, 2017, served upon Respondent as verified through the certified return receipt filed herein signed by Respondent as the Addressee on April 6, 2017, at the address given to Petitioner by Respondent at 604 W. 38<sup>th</sup> Street, Sand Springs, OK 74063, by a representative of the U.S. Postal Service.

3. The licensing system of record for mortgage brokers and mortgage loan originators in the State of Oklahoma is NMLS.

4. Respondent is licensed as a mortgage loan originator in the State of Oklahoma pursuant to the SAFE Act with the following licensing information indicated by NMLS:

(a) Oklahoma license number MLO11998;

(b) NMLS unique identifier number/company ID 146601.

(c) Mailing address of record at 604 W. 38<sup>th</sup> Street, Sand Springs, OK 74063.

5. Respondent's license renewal fee was not paid to the Department on or before December 1, 2016.

6. Respondent requested a renewal of his license on December 20, 2016.

### **CONCLUSIONS OF LAW**

The Administrator of Consumer Credit concludes as follows:

1. Respondent has violated 59 O.S. § 2095.6(K)(2) for failure to pay the late renewal fee as prescribed by rule of the Commission on Consumer Credit.

2. Respondent has violated the Oklahoma Administrative Code 160:5-1-2(8)(D) for failure to timely pay the late fee assessed per day beginning on December 1, 2016.

3. The Respondent has violated 59 O.S. § 2095.18(8) for failure to comply with the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, or rules promulgated under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act or failure to comply with any other state or federal law, including any rules thereunder, applicable to any business authorized or conducted under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.

4. The tender and payment of late license renewal fees by a licensee subsequent to the institution of formal disciplinary proceedings by a licensing agency against that licensee through the issuance of a notice and order of hearing to the licensee, and the tender and payment of late license renewal fees by a licensee in the absence of any stipulation, agreed settlement, or

consent agreement, having been entered into between the licensee and the licensing agency, does not constitute an “informal disposition” of the formal disciplinary proceedings instituted by the licensing agency against that licensee through the issuance of a notice and order of hearing as contemplated in and authorized by the Administrative Procedures Act, 75 O.S. § 309(E).

### **ORDER**

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

Respondent is hereby found to be a licensed as a mortgage loan originator in the State of Oklahoma pursuant to the SAFE Act with the following licensing information indicated by NMLS: (a) Oklahoma license number MLO11998; (b) NMLS unique identifier number/company ID 146601; (c) mailing address of record at 604 W. 38<sup>th</sup> Street, Sand Springs, OK 74063, that has violated 59 O.S. § 2095.6 and § 2095.18(8) for failure to comply with the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, or rules promulgated under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act or failure to comply with any other state or federal law, including any rules thereunder, applicable to any business authorized or conducted under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.

1. Respondent is fined in the amount of Five Hundred Dollars (\$500.00) for violation of 59 O.S. § 2095.6(K)(2) for failure to pay the late renewal fee as prescribed by rule of the Commission on Consumer Credit, \$250.00 of which having already been paid, Respondent shall pay the remaining \$250.00 to Petitioner.

2. As Respondent is not the prevailing party in this matter, Respondent shall be assessed \$153.00 in hearing costs incurred in this matter as authorized in 59 O.S. § 2095.17(D).

3. Respondent's license as a mortgage loan originator in the State of Oklahoma pursuant to the SAFE Act shall be and remain SUSPENDED until such time as all fees, fines and hearing costs are all fully paid to Petitioner, and that a Cease and Desist Order is issued against Respondent to cease and desist from acting or resuming to act as an Oklahoma licensed mortgage loan originator until such time as all fees, fines and hearing costs are all fully paid to Petitioner and to permanently continue to so cease and desist until such time, if ever, as Respondent pays all of the aforesaid fees, fines and hearing costs.

So ordered this 14th day of July, 2017.



Scott Leshner  
Administrator of Consumer Credit  
State of Oklahoma

