

**BEFORE THE GEORGIA DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA**

CHRISTOPHER DARREN CROSBY,

Petitioner,

v.

GEORGIA DEPARTMENT OF
BANKING AND FINANCE,

Respondent.

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NMLS: 162397

GDBF: 41079

Docket No. DBF-MLO-14-0017-0285

TO: Christopher Darren Crosby
906 Altamira Lane
Sandy Springs, Georgia 30350

Therese G. Franzen, Esq.
Franzen and Salzano, P.C.
40 Technology Parkway South, Suite 202
Norcross, Georgia 30092

FINAL ORDER

A. BACKGROUND

The Georgia Department of Banking & Finance (“Respondent”) issued and properly served an Order to Cease and Desist and a Notice of Intent to Revoke Mortgage Loan Originator’s License on April 7, 2011 to Christopher Darren Crosby (“Petitioner”). In response to the receipt of the Notice of Intent to Revoke Mortgage Loan Originator’s License and Order to Cease and Desist that was issued by the Respondent, Petitioner requested a hearing pursuant to O.C.G.A. § 7-1-1017(b). Respondent issued amended administrative actions, an Order to Cease and Desist and a Notice of Intent to Revoke Mortgage Loan Originator’s License, on May 29, 2014 via certified and regular mail, and the amended notices were delivered on May 31, 2014. No additional hearing request was required. The amended notices asserted that the Respondent determined that Petitioner violated the Georgia Residential Mortgage Act, O.C.G.A. § 7-1-1000 *et. seq.* Specifically, the amended notices provided that during an examination of Cornerstone Mortgage Company d/b/a Brayden Capital Home Loans, Respondent obtained evidence that Petitioner made false statements or material misrepresentations to the Department in violation of O.C.G.A. § 7-1-1013(11). Additionally, the amended notices stated that Petitioner, in violation of O.C.G.A. § 7-1-1002(a)-(c), transacted business with a person who is unlicensed and unregistered, not exempt from licensing and registration requirements and/or directly or indirectly controlled a person who violated O.C.G.A. § 7-1-1002(a) and (b).

A Notice of Hearing was issued on June 5, 2014, setting a hearing date of August 13, 2014 at 9:30 a.m. at the Department. The Notice of Hearing was delivered via certified mail to Franzen & Salzano, 40 Technology Pkwy S, Norcross, Georgia 30092 as well as via certified mail to Petitioner's residence at 906 Altamira Lane, Sandy Springs, Georgia 30350. In addition, prior to the hearing, Respondent's counsel sent an email to Petitioner and to Petitioner's attorney, Therese Franzen, as a reminder of the scheduled hearing date. At the hearing, Respondent was represented by Morgan Clemons, Non-Depository Financial Institutions Attorney. No one appeared at the hearing on behalf of Petitioner. Petitioner did not request a continuance or otherwise indicate an inability to attend the hearing. In light of Petitioner's failure to appear, Respondent requested the entry of a default order pursuant to O.C.G.A. § 50-13-13(a)(4) upholding the revocation of Petitioner's mortgage loan originator's license and the Order to Cease and Desist.

B. PROFFER OF FACTS

1.

Respondent made an oral motion at the hearing to make an offer of proof. Pursuant to O.C.G.A. §50-13-13(a)(6), the Commissioner permitted the proffer.

2.

In 2007, Georgia licensed mortgage lender Cornerstone Mortgage Company submitted an application to establish a new branch in Georgia, and Respondent approved the branch. Further, in 2007, Respondent approved a trade name application for Cornerstone Mortgage Company to do business as "Brayden Capital Home Loans."

3.

In 2007, Petitioner was approved by the Department as a branch manager for Georgia licensed mortgage lender Cornerstone Mortgage Company d/b/a Brayden Capital Home Loans.

4.

In 2007, Petitioner did not disclose his affiliation with three business, Live Oak Homes, Brayden Capital, LLC, and Capital Property Lending Group, in his branch manager application submitted to the Department. Respondent would not have approved Cornerstone Mortgage Company's request to establish a new branch and use the trade name Brayden Capital Home Loans if Respondent had knowledge of Petitioner's ownership of and/or affiliation with Brayden Capital, LLC in light of the similarity between Cornerstone Mortgage Company's trade name and Petitioner's company. If the branch had not been approved, then, logically, Petitioner could not have been approved as the branch manager of a nonexistent branch.

5.

In 2010, Petitioner filed an application for a mortgage loan originator's license for consideration by Respondent. Petitioner did not disclose his affiliation with four businesses, Live Oak Homes, Brayden Capital, LLC, Capital Property Lending Group, and Brayden Capital Insurance Partners, in his mortgage loan originator application. Respondent issued a mortgage loan originator license to Petitioner. If Respondent had knowledge of Petitioner's affiliation with Brayden Capital, LLC, Respondent would have investigated further to consider, among other items, whether laws and regulations precluding net branching had been violated.

6.

In 2011, Respondent performed an examination of Cornerstone Mortgage Company d/b/a/ Brayden Capital Home Loans. Based on its findings from the examination of Cornerstone Mortgage Company, Respondent determined that additional investigation of Petitioner was warranted.

7.

Also in 2011, Petitioner submitted an application and accompanying documents to obtain a mortgage license for Brayden Capital, LLC. Based on the submitted documents, Respondent determined that Petitioner owned and controlled Brayden Capital, LLC.

8.

Based on the Cornerstone Mortgage Company d/b/a Brayden Capital Home Loans examination and the documents submitted on behalf of Brayden Capital, LLC, Respondent determined that Brayden Capital, LLC was conducting mortgage activity without a valid license or pursuant to an applicable exemption. Respondent issued an Order to Cease and Desist to Brayden Capital, LLC for violating O.C.G.A. §7-1-1002. The Order to Cease and Desist is a final order of the Department.

9.

Finally, Respondent obtained additional information indicating that Petitioner had been placed on the Federal Home Loan Mortgage Corporation's ("Freddie Mac") "exclusionary list" for violations by Capital Property Lending Group, a company affiliated with Petitioner, in connection with loans refinanced by Cornerstone Mortgage Company. If Respondent had been aware of Petitioner's ownership of Capital Property Lending Group, Respondent would have conducted a thorough examination of this relationship and, presumably, uncovered the violations identified by Freddie Mac.

10.

In light of the above, Respondent determined that Petitioner violated the Georgia Residential Mortgage Act by making false statements or material misrepresentations to the

Department and engaging in unlicensed activity. This determination resulted in the notices and the amended notices being issued to Petitioner.

C. LEGAL STANDARD

1.

The Department has the broad administrative authority to administer, interpret, and enforce the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. O.C.G.A. §7-1-1001.1(b).

2.

It is prohibited for any person to transact business in this state directly or indirectly as a mortgage broker, a mortgage lender, or a mortgage loan originator unless such person is licensed or registered as such by the Department or such person is exempt from licensing or registration requirements. O.C.G.A. § 7-1-1002(a). It is prohibited for any person, including a corporation, to knowingly purchase, sell or transfer one or more mortgage loans or loan applications from or to a mortgage loan originator, mortgage broker or mortgage lender who is neither licensed nor exempt from licensing. O.C.G.A. § 7-1-1002(b). Every person who indirectly or directly controls a person who violates subsection (a) or (b) violates with and to the same extent as that person. O.C.G.A. § 7-1-1002(c).

3.

It is prohibited for any person to purposely withhold, delete, destroy or alter information requested by an examiner of the department or to make false statements or material misrepresentations to the Department or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the Department or another governmental agency. O.C.G.A. § 7-1-1013(11).

4.

The Department is authorized to revoke an original license for violation of any provision of the Georgia Residential Mortgage Act pursuant to O.C.G.A. §7-1-1017(a)(1). The Department is authorized to issue an Order to Cease and Desist for violation of any law of this State or any order or regulation of the Department pursuant to O.C.G.A. § 7-1-1018(a).

5.

Informal disposition may be made of this matter by entry of a default. O.C.G.A. §50-13-13(a)(4).

D. DETERMINATION

Although properly served with the Notice of Hearing, Petitioner failed to appear at the

date and time of the scheduled hearing. In light of Petitioner's failure to appear, this Tribunal grants the Respondent's oral motion for entry of default. Therefore, the Respondent's determination, as set forth in the amended Notice of Intent to Revoke Annual License and in the Order to Cease and Desist that the Petitioner made false statements or material misrepresentations to the Respondent in violation of O.C.G.A. § 7-1-1013(11), and, in violation of O.C.G.A. § 7-1-1002(a)-(c), transacted business with a person who is unlicensed and unregistered, not exempt from licensing and registration requirements and/or directly or indirectly controlled a person who violated O.C.G.A. §7-1-1002(a) and (b), is affirmed.

ORDER

It is the **FINAL ORDER** of the Department that Respondent's request for default is **GRANTED**. Therefore, the issuance of the amended Notice of Intent to Revoke Mortgage Loan Originator's License and the amended Order to Cease and Desist is **UPHELD**; the mortgage loan originator's license is **REVOKED**; and the amended Order to Cease and Desist is **FINAL**.

SO ORDERED, this 12th day of September, 2014.



KEVIN B. HAGLER
Commissioner
Department of Banking & Finance