

STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:

WILLIE OZIER

DOCKET NO. 03.00-132915J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **February 17, 2016**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

FINDINGS of FACT

1. The Department of Financial Institutions ("Department") is charged with the execution of all laws relative to persons doing or engaged in a business as provided in Title 45, Chapter 5 of the Tennessee Code Annotated. (TENN. CODE ANN. § 45-1-104 and § 45-5-501).

2. The Commissioner of the Tennessee Department of Financial Institutions ("Commissioner") is responsible for the administration, interpretation, and enforcement of the Tennessee "Industrial Loan and Thrift Companies Act", TENN. CODE ANN. §§ 45-5-101, *et seq.* ("TILT ACT").

3. The Division is the lawfully designated representative through which the Commissioner regulates any and all persons subject to the TILT Act.

4. Willie Ozier, d/b/a Complete Money Lending Company ("Respondent"), is a natural person with a last known address of 37 Archwood Drive, Jackson, TN 38301.

5. On June 12, 2015, the Division received an application on behalf of the Respondent. The Respondent submitted the application with the Division in order to obtain a certificate of registration to lawfully engage in business as an industrial loan and thrift company, pursuant to the TILT Act.

6. The only business experience submitted on the application by the Respondent was the operation of a tax preparation business for the previous three (3) tax seasons. Respondent proposes to operate the business himself, as the sole employee. Respondent notes that his wife (unclear what business experience the school teacher wife has) will help and that he will have advisory assistance from Johnathan A. Martin, an Accountant, not a CPA, whose experience is in internal auditing and in general accounting.

7. As part of the application process, the Respondent authorized the Commissioner to obtain a criminal history check as required by TENN. CODE ANN. § 45-5-202(g) of the TILT Act. The Respondent submitted documentation pertaining to the criminal background check as part of the application process.

8. When an application is filed, initially it is analyzed by a financial analyst. If all requirements for registration are not clearly met, the application is presented to a registration committee of the Division. The matter is discussed and a recommendation regarding the application is presented to the Commissioner by the Division. The Division recommended to the Commissioner that the Respondent's application for a TILT registration be denied.

9. In a letter dated August 21, 2015, the Commissioner denied the application because the Respondent failed to satisfy the "...experience, character, and general fitness..." requirements set forth in TENN. CODE ANN. § 45-5-201(a)(1) of the TILT Act. There were two (2) separate bases for the denial of the Respondent's application: failure to satisfy the experience requirement and failure to satisfy the character and general fitness requirements.

10. It is **DETERMINED** that each basis, the failure to satisfy the experience requirement or the failure to satisfy the character and general fitness requirement, if standing alone, was individually sufficient to deny the Respondent's application for a TILT registration.

11. Specifically, the Commissioner wrote that, "[o]n the Industrial Loan and Thrift application you list experience of owning and operating a tax preparation service, Complete Tax Service, in Jackson, Tennessee for the past three (3) years. There is not any experience listed within the financial services industry other than assisting others to prepare tax returns."

12. The Commissioner continued that, "[i]n your response you explained that because of previous misdemeanors in your background you pled guilty to criminal trespass and invasion of privacy, both misdemeanors. Attached to your response is what appears to be a copy of a Judgment from the Criminal/Circuit Court of Gibson County, Tennessee indicating that you were indicted for the crime of theft of identity (Tenn. Code Ann. § 39-14-150) a class D felony, committed on July 21, 2011, and that you pled guilty on January 21, 2014 to the crime of educational record fraud (Tenn. Code Ann. § 39-14-136), a Class A misdemeanor."

13. The Respondent also admits to a history of previous misdemeanor convictions.

14. The Division considered and was extremely concerned with the recentness of the date of the guilty plea for the criminal offense of Educational Record Fraud, which was only

approximately 15 months before the submission of the application for a TILT certificate of registration. The Division also considered the nature of the criminal offense of Educational Record Fraud, and its relationship to the ability of a registrant "to command the confidence of the public and warrant the belief that the business to be operated will be operated lawfully and fairly;" (TENN. CODE ANN. § 45-5-201(a)(1))

15. The denial letter provided written notice of the Respondent's right to submit a written demand for a hearing pursuant to TENN. CODE ANN. § 45-5-204(c) of the TILT Act. In a fax dated August 26, 2015, the Respondent submitted such a demand.

16. During the hearing, the Respondent admitted that:

- A. He has no experience in lending money to consumers.
- B. He has never underwritten a consumer loan.
- C. He has never securitized a consumer loan.
- D. He has never handled a delinquent loan.
- E. He has never repossessed collateral from a loan.
- F. He has absolutely no experience in the lending business or the financial services area.

CONCLUSIONS of LAW

1. TENN. CODE ANN. § 45-5-103(a) of the TILT Act states, that "Except as otherwise provided by this chapter, no person shall engage in business as an industrial loan and thrift company or industrial bank or industrial investment company without obtaining from the commissioner a certificate of registration as herein provided."

2. The general qualifications for registration as an industrial loan and thrift company require, in pertinent part, the following:

(a) In order to qualify for registration as an industrial loan and thrift company, a person must:

- 1) Demonstrate experience, character and general fitness to command the confidence of the public and warrant the belief that the business to

be operated will be operated lawfully and fairly; (TENN. CODE ANN. § 45-5-201(a)(1))

3. TENN. CODE ANN. § 45-5-204 of the TILT Act states, in pertinent part, that:

(a) If the commissioner determines that an applicant is not qualified to receive a certificate of registration, the commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(b) If the commissioner denies an application...the applicant may make written demand to the commissioner for a hearing before the commissioner on the question of whether the certificate of registration should be granted.

(c) The hearing shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In the hearing, the burden of proving that the applicant is entitled to a certificate of registration shall be on the applicant....

4. During the hearing, the Respondent has the burden of proving that he is entitled to a certificate of registration to engage in business as an industrial loan and thrift company.

5. It is **CONCLUDED** that the Respondent's application for registration was denied because the Respondent failed to satisfy the experience requirement and because the Respondent failed to satisfy the character and general fitness requirement. Each of these bases is individually sufficient to support the denial of Respondent's application for a certificate of registration to operate a TILT.

6. The Respondent argues that the statute is unclear in that "the statute does not give any number of years as a minimum requirement for experience at all." It is true that the statute does not list a minimum; however, in the instant matter one is not assessing whether the amount of experience the Respondent has is sufficient. Rather, in the instant matter, the Respondent has no experience in consumer lending at all. Therefore, it is **CONCLUDED** that Respondent has failed to satisfy the requirement that a TILT registrant have "...experience ... to command the confidence of the public and warrant the belief that the business to be operated

will be operated lawfully and fairly," as set forth in TENN. CODE ANN. § 45-5-201(a)(1) of the TILT Act.

7. It is **CONCLUDED** that the Respondent is not qualified to receive a TILT certificate of registration due to his failure to satisfy the character and general fitness requirement, based upon his January 2014 misdemeanor conviction for Educational Record Fraud and past history of misdemeanor convictions. It is also **CONCLUDED** that the Respondent is not qualified to receive a TILT certificate of registration due to his failure to satisfy the experience requirement.

8. Thus, it is **CONCLUDED** that the Division has shown that the Respondent is not qualified to receive a TILT certificate of registration. The Respondent has failed to "demonstrate experience, character and general fitness to command the confidence of the public and warrant the belief that the business to be operated will be operated lawfully and fairly." (TENN. CODE ANN. § 45-5-201(a)(1))

9. The Respondent has the burden of proving that he is entitled to a certificate of registration to engage in business as an industrial loan and thrift company. It is **CONCLUDED** that the Respondent has failed to meet this burden.

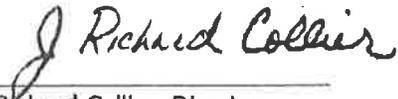
10. Accordingly, Respondent Willie Ozier's application for a TILT certificate of registration is hereby **DENIED**.

This Initial Order entered and effective this 2ND day of FEB, 2016.


Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 2nd day of January, 2016.

FEB.



J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER

NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.