



**State of Tennessee**  
**Department of State**  
Administrative Procedures Division  
312 Rosa L. Parks Avenue  
8<sup>th</sup> Floor, William R. Snodgrass Tower  
Nashville, Tennessee 37243-1102  
Phone: (615) 741-7008/Fax: (615) 741-4472

**March 25, 2020**

Todd A. Staley  
312 Rosa L. Parks Ave.  
Tennessee Tower, 26th Floor  
Nashville, TN 37243

William Anthony McCoy  
4706 Kensington Drive  
Old Hickory, TN 37138

**RE: TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS V. WILLIAM ANTHONY MCCOY, APD Case No. 03.00-191486J**

Enclosed is a/an *IO OF DEFAULT AND DISMISSAL* rendered in this case.

Administrative Procedures Division  
Tennessee Department of State

Enclosure(s)

**BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
FINANCIAL INSTITUTIONS,**

*Petitioner,*

**v.**

**WILLIAM ANTHONY MCCOY,**

*Respondent.*

**APD Case No. 03.00-191486J**

**INITIAL ORDER OF DEFAULT AND DISMISSAL**

This matter was heard on March 9, 2020 (03/09/2020), at nine o'clock (9:00) a.m., central time, in the 3<sup>rd</sup> floor conference room P at 312 Rosa L. Parks Avenue North, William R. Snodgrass Tennessee Tower, Nashville, Tennessee 37243, before Administrative Judge Richard Murrell, assigned to the Administrative Procedures Division of the Tennessee Department of State, and sitting for the Commissioner of the Tennessee Department of Financial Institutions (hereinafter "Commissioner"), pursuant to Tennessee Code Annotated Section (hereinafter "TENN. CODE ANN. §") 4-5-301(d).

The Compliance Division of the Tennessee Department of Financial Institutions (hereinafter "Petitioner") was represented by Todd A. Staley and Eric E. Rogers, Staff Attorneys with the Tennessee Department of Financial Institutions (hereinafter "Department"). William Anthony McCoy (hereinafter "Respondent") did not appear or participate in the hearing and no one appeared on the Respondent's behalf.

**ORDER OF DEFAULT**

1. The record demonstrates that the Petitioner mailed the Respondent, via United States Certified Mail, Return Receipt Requested, and via United States First Class Mail, postage

prepaid, a “Motion Requesting the Assignment of an Administrative Judge to Conduct Contested Case” on October 2, 2019 (10/02/2019).

2. The record demonstrates that an order was entered on December 11, 2019 (12/11/2019), setting this matter for a hearing on March 9, 2020 (03/09/2020), at nine o’clock (9:00) a.m., central time, in the 3<sup>rd</sup> floor conference room P at 312 Rosa L. Parks Avenue North, William R. Snodgrass Tennessee Tower, Nashville, Tennessee 37243. True and correct copies of the aforementioned Order were mailed to the Petitioner and the Respondent at their address of record on file in this proceeding.

3. The record demonstrates that Todd A. Staley and Eric E. Rogers were present at the hearing on behalf of the Petitioner.

4. The record demonstrates that the Respondent did not respond to the Motion Requesting the Assignment of an Administrative Judge to Conduct Contested Case, did not attend or otherwise participate in the hearing of this manner after due notice thereof.

5. The record demonstrates that Todd A. Staley, attorney for the Petitioner, made an oral motion at the hearing to hold the Respondent in default due to the Respondent’s failure to attend or participate at the hearing after due notice thereof, to conduct the hearing without the participation of the Respondent, and to dismiss all issues on which the Respondent bears the burden of proof pursuant to TENN. CODE ANN. § 4-5-309 and the Official Compilation of Rules & Regulations of the State of Tennessee (hereinafter “TENN. COMP. R. & REGS.”) 1360-04-01.15 (2004).

6. The record demonstrates that the Petitioner’s oral motion was granted and Respondent was held in default for failure to attend or participate at the hearing after due notice thereof. This contested case proceeded without the participation of the Respondent, and the

Administrative Judge dismissed all issues to which the Respondent bears the burden of proof pursuant to TENN. CODE ANN. § 4-5-309 and TENN. COMP. R. & REGS 1360-04-01.15 (2004).

### **NOTICE OF DEFAULT**

**NOTICE IS HEREBY GIVEN THE RESPONDENT THAT THE RESPONDENT HAS BEEN HELD IN DEFAULT FOR FAILURE TO APPEAR OR PARTICIPATE AT A HEARING ON THE MERITS AFTER RECEIVING DUE NOTICE THEREOF. TENN. CODE ANN. § 4-5-309. THE RESPONDENT, WITHIN FIFTEEN (15) DAYS AFTER ENTRY OF THIS INITIAL ORDER, MAY FILE A PETITION FOR RECONSIDERATION, STATING THE SPECIFIC GROUNDS FOR SETTING THE DEFAULT ASIDE, PURSUANT TO TENN. CODE ANN. § 4-5-317. THE PETITION FOR RECONSIDERATION MUST BE FILED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, 312 ROSA L. PARKS AVENUE NORTH, 8<sup>TH</sup> FLOOR, WILLIAM SNODGRASS TENNESSEE TOWER, NASHVILLE, TENNESSEE 37243. IF THE RESPONDENT FAILS TO FILE A PETITION FOR RECONSIDERATION OR OTHERWISE FAILS TO APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW.**

### **INITIAL ORDER**

7. This matter is a contested case proceeding pursuant to the Uniform Administrative Procedures Act, TENN. CODE ANN. § 4-5-101 *et. seq.*, initiated by the Respondent and seeking an Initial Order requiring the Commissioner to issue the Respondent a license to lawfully engage in the business of mortgage loan origination pursuant to TENN. CODE ANN. § 45-13-301(a) of the “Tennessee Residential Lending, Brokerage and Servicing Act” (hereinafter “Tennessee Mortgage Act”).

8. After consideration of the pleadings, argument of counsel, and the record as whole, it is the determination of this Administrative Judge that an Initial Order should be

entered holding the Respondent in **DEFAULT** for failing to attend or participate in the hearing of this matter after due notice thereof, **DISMISSING** all issues on which the Respondent had the burden of proof, and **UPHOLDING** the Commissioner's decision to deny the Respondent's application for a license to lawfully engage in the business of a mortgage loan originator pursuant to TENN. CODE ANN. § 45-13-301(a) of the Tennessee Mortgage Act. This conclusion is based upon the following findings of fact and conclusions of law:

### **FINDINGS OF FACT**

9. The Commissioner is responsible for the administration, enforcement, and interpretation of the Tennessee Mortgage Act and any rules promulgated pursuant to the Tennessee Mortgage Act.

10. The Petitioner is the lawfully designated representative through which the Commissioner regulates any and all persons subject to the Tennessee Mortgage Act.

11. The Respondent is a natural person with a last known address of 4706 Kensington Drive, Old Hickory, Tennessee 37138.

12. On or about January 8, 2019 (01/08/2019), the Petitioner received an application on behalf of the Respondent. The Respondent submitted the application with the Petitioner in order to obtain a license to lawfully engage in the business of a mortgage loan originator pursuant to TENN. CODE ANN. § 45-13-302 of the Tennessee Mortgage Act.

13. As part of the application process, the Respondent authorized the Commissioner and/or the Nationwide Multistate Licensing System to obtain an independent credit report from a consumer reporting agency pursuant to by TENN. CODE ANN. § 45-13-302(a)(4)(A) of the Tennessee Mortgage Act.

14. After receiving the Respondent's authorization to obtain a credit report, the Division received a copy of the Respondent's credit report and reviewed said credit report.

15. Based upon information contained in the Respondent's credit report, the Division forwarded the Respondent a letter dated January 19, 2019 (01/19/2019), requesting information and/or documentation regarding certain item(s) on said credit report. Additionally, the letter stated that if the Respondent failed to respond within thirty (30) days, then the application may be considered incomplete which could serve as a basis to deny Respondent's application.

16. In a letter dated April 19, 2019 (04/19/2019), the Commissioner denied the application because the Respondent had failed to submit a complete application for licensure as a mortgage loan originator as required by TENN. CODE ANN. § 45-13-302(c) of the Tennessee Mortgage Act. The letter provided written notice of the grounds supporting the denial, and provided written notice of the Applicant's right to submit a written demand for a hearing pursuant to TENN. CODE ANN. § 45-13-302(d) of the Tennessee Mortgage Act.

17. In an e-mail dated May 10, 2019 (05/10/2019), the Respondent submitted a written demand for a hearing pursuant to TENN. CODE ANN. § 45-13-302(d) of the Tennessee Mortgage Act.

18. The record demonstrates that the Respondent did not attend or participate in the hearing of this matter on March 9, 2020 (03/09/2020) after due notice thereof.

#### **CONCLUSIONS OF LAW**

19. TENN. CODE ANN. § 45-13-301(a) of the Tennessee Mortgage Act states, in pertinent part, that "[a]n individual, unless specifically exempted under subsection (b), shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license issued by the commissioner and without first being sponsored in accordance with § 45-13-303...."

20. Pursuant to TENN. CODE ANN. § 45-13-302(c) of the Tennessee Mortgage Act, no mortgage loan originator license shall be issued unless the Commissioner makes at a minimum the following findings:

(1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction...;

(2) (A) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in any domestic, foreign or military court:

(i) During the seven-year period preceding the date of application for a mortgage loan originator license; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty or a breach of trust or money laundering;

(B) Provided, that any pardon of a conviction shall not be a conviction for purposes of subdivisions (c)(2)(A)(i) and (ii);

(3) The applicant has demonstrated the financial responsibility, character and general fitness to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly and efficiently within the purposes of this chapter. An individual has shown that the individual is not financially responsible when the individual has shown a disregard in the management of the individual's own financial condition;

(4) The applicant has completed the pre-licensing education requirements set forth in § 45-13-304; and

(5) The applicant has passed a written test that meets the test requirement described in § 45-13-305.

21. TENN. CODE ANN. § 45-13-302(d) of the Tennessee Mortgage Act states:

If the commissioner does not find the applicant so qualified, the commissioner shall notify the applicant in writing, stating the basis for denial. If the commissioner denies an application or fails to act on a complete application within ninety (90) days, the applicant may make a written demand to the commissioner for a hearing on the question of whether the license should be granted. Any hearing requested under this subsection (d) shall be conducted under the Uniform Administrative Procedures Act,

compiled in title 4, chapter 5; provided, that the individual has requested the hearing in writing within thirty (30) days following the date of the commissioner's denial. At the hearing, the burden of proving that the individual is entitled to a mortgage loan originator license shall be on the individual.

22. TENN. CODE ANN. § 4-5-309(a) states “[i]f a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative judge or hearing officer, hearing the case alone, or agency, sitting with the administrative judge or hearing officer, may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.”

23. TENN. CODE ANN. § 4-5-309(b) states, in pertinent part, “[i]f the proceedings are conducted without the participation of the party in default, the administrative judge or hearing officer, hearing the case alone, shall include in the initial order a written notice of default, otherwise, the agency, sitting with the administrative judge or hearing officer, shall include such written notice of default in the final order...”

24. TENN. CODE ANN. § 4-5-309(c) states that “[a] party may petition to have a default set aside by filing a timely petition for reconsideration as provided in § 4-5-317.”

25. TENN. CODE ANN. § 4-5-309(d) states “[i]f a party fails to file a timely petition for reconsideration or the petition is not granted, the administrative judge or hearing officer, sitting alone, or agency, sitting with the administrative judge or hearing officer, shall conduct any further proceedings necessary to complete the contested case without the participation of the defaulting party and shall determine all issues in the adjudication, including those affecting the defaulting party.”

26. TENN. COMP. R. & REGS 1360-04-01-.15(1)(a) states, in pertinent part, that “[t]he failure of a party to attend or participate in a prehearing conference, hearing or other stage of

contested case proceedings after due notice thereof is cause for holding such party in default pursuant to T.C.A. §4-5-309...”

27. TENN. COMP. R. & REGS 1360-04-01-.15(1)(d) states “[i]f the notice is held to be adequate, the agency, or administrative judge hearing a case alone, shall grant or deny the motion for default, taking into consideration the criteria listed in rule 1360-04-01-.06, subsections (2) (a) through (2) (d), where appropriate. Grounds for the granting of a default shall be stated and shall thereafter be set forth in a written order. If a default is granted, the proceedings may then be adjourned or conducted without the participation of the absent party.”

28. TENN. COMP. R. & REGS 1360-04-01-.15(2)(a) states “[u]pon entry into the record of the default of the petitioner at a contested case hearing, the charges shall be dismissed as to all issues on which the petitioner bears the burden of proof, unless the proceedings are adjourned.”

29. TENN. CODE ANN. § 45-13-302(d) of the Tennessee Mortgage Act places the burden of proof on the Respondent to prove by a preponderance of the evidence that the Respondent is entitled to a mortgage loan originator license.

30. The record demonstrates that the Respondent did not attend, respond, or otherwise participate in the hearing of this matter after due notice thereof.

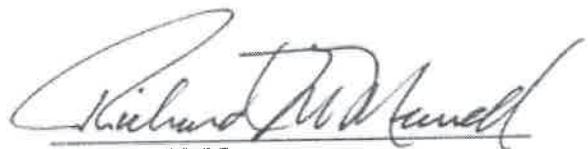
31. The Respondent’s failure to attend or participate at the hearing of this matter after due notice thereof is grounds for holding the Respondent in default. Upon entry in the record of the default of the Respondent at the hearing, the charges shall be dismissed as to all issues on which the Respondent bears the burden of proof. TENN. CODE ANN. § 45-13-302(d) of the Tennessee Mortgage Act places the burden of proof on the Respondent to prove by a preponderance of the evidence that the Respondent is entitled to a mortgage loan originator license.

32. The findings of fact and conclusions of law as stated in paragraphs one (1) through thirty-one (31), incorporated by reference as though specifically set forth herein, are sufficient to establish that the Respondent failed to carry the burden of proving by a preponderance of the evidence that the Respondent is entitled to a mortgage loan originator license under TENN. CODE ANN. § 45-13-301(a) of the Tennessee Mortgage Act.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Respondent is hereby held in **DEFAULT** for failing to attend or participate at the hearing of this matter after due notice thereof, that all issues on which the Respondent had the burden of proof are hereby **DISMISSED**, and that the Commissioner's decision to deny the Respondent's application for a license to lawfully engage in the business of a mortgage loan originator is hereby **UPHELD** due to the Respondent's failure to carry the burden of proving by a preponderance of the evidence that the Respondent is entitled to a mortgage loan originator license under TENN. CODE ANN. § 45-13-301(a) of the Tennessee Mortgage Act.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **25th day of March, 2020**.



**RICHARD M. MURRELL**  
**ADMINISTRATIVE JUDGE**  
**ADMINISTRATIVE PROCEDURES DIVISION**  
**OFFICE OF THE SECRETARY OF STATE**

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the **25th day of March, 2020**.



STEPHANIE SHACKELFORD, DIRECTOR  
ADMINISTRATIVE PROCEDURES DIVISION  
OFFICE OF THE SECRETARY OF STATE

RECEIVED  
MAR 27 2020

DEPARTMENT OF  
FINANCIAL INSTITUTIONS

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS (COMMISSIONER)**, called an Initial Order, was entered on **March 25, 2020**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and states the specific reasons why you think the decision is incorrect. The APD must receive your written Petition no later than 15 days after entry of the Initial Order, which is no later than **April 9, 2020**. A new 15 day period for the filing of an appeal to the **COMMISSIONER** (as set forth in paragraph (2), below) 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.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal. Such an Appeal must be received by the APD no later than 15 days after the date of denial of the Petition. See TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order:** You may appeal the decision to the **COMMISSIONER**. Mail to the APD a document that includes your name and the above APD case number, and states that you want to appeal the decision to the **COMMISSIONER**, along with the specific reasons for your appeal. The APD must receive your written Appeal no later than 15 days after the entry of the Initial Order, which is no later than **April 9, 2020**. The filing of a Petition for Reconsideration is not required before appealing. See TENN. CODE ANN. § 4-5-317.
3. **The COMMISSIONER decides to Review the Initial Order:** In addition, the **COMMISSIONER** may give written notice of the intent to review the Initial Order, within 15 days after the entry of the Initial Order.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the **COMMISSIONER** renders a Final Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

**STAY**

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be received by the APD within 7 days of the date of entry of the Initial Order, which is no later than **April 1, 2020**. See TENN. CODE ANN. § 4-5-316.

NOTICE OF APPEAL PROCEDURES

REVIEW OF A FINAL ORDER

1. **A Party may file a Petition for Reconsideration of the Final Order:** When an Initial Order becomes a Final Order, a party may file a Petition asking for reconsideration of the Final Order. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and states the specific reasons why you think the Final Order is incorrect. If the Initial Order became a Final Order without an Appeal being filed, and without the **COMMISSIONER** deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the **COMMISSIONER** rendered a Final Order, the **COMMISSIONER** will consider the Petition. The APD must receive your written Petition for Reconsideration no later than 15 days after: (a) the issuance of a Final Order by the **COMMISSIONER**; or (b) the date the Initial Order becomes a Final Order. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing the Final Order will be adjusted. If no action is taken within 20 days of filing of the Petition, it is deemed denied. *See* TENN. CODE ANN. § 4-5-317.
2. **A Party Files an Appeal of the Final Order:** A person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," within 60 days of (a) the date of entry of a Final Order; or (b) the date the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.
3. **A Party may request a stay of the Final Order:** A party may file a Petition asking for a stay that will delay the effectiveness of the Final Order. If the Initial Order became a Final Order without an Appeal being filed, and without the **COMMISSIONER** deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the **COMMISSIONER** rendered a Final Order, the **COMMISSIONER** will consider the Petition. A Petition for a stay of a Final Order must be received by the APD within 7 days after the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-316.

FILING

To file documents with the Administrative Procedures Division, use this address:

Secretary of State  
Administrative Procedures Division  
William R. Snodgrass Tower  
312 Rosa L. Parks Avenue, 8<sup>th</sup> Floor  
Nashville, TN 37243-1102  
Fax: (615) 741-4472

RECEIVED  
MAR 27 2020

DEPARTMENT OF  
FINANCIAL INSTITUTIONS