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**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

FILED
JUL 03 2008
OFFICE OF STATE
ADMINISTRATIVE HEARINGS

NLC OF GEORGIA, INC.,

Petitioner,

v.

GEORGIA DEPARTMENT OF
BANKING AND FINANCE,

Respondent.

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* Docket Number:
* OSAH-DBF-MBL-0831210-60-Howells
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INITIAL DECISION

Respondent filed its affidavit supported Motion for Summary Determination on June 10, 2008. Petitioner did not file a response to the motion. For the reasons stated below, Respondent's Motion for Summary Determination is **GRANTED**.

I. FINDINGS OF FACT

The following facts are undisputed:

1.

Starting on December 10, 2007, the Department initiated its examination of NLC of Georgia, Inc. ("NLC"), a licensed mortgage broker. (Bauguss Aff. ¶ 4). During the examination, the Department requested that Katherine Le, the president and owner of NLC, complete the Officer's Questionnaire for NLC. (Bauguss Aff. ¶ 4, Ex. 1). As indicated in the employee portion of the Officer's Questionnaire provided to the Department, Larry D. Hall was employed by NLC as a senior loan officer beginning on November 30, 2005. (See Bauguss Aff., Ex. 1 at 4-15).

2.

On December 14, 1999, Larry D. Hall was convicted of criminal damage to property in the second degree, a felony. (See Ex. D).

3.

As a result of the investigation, the Department issued a Notice of Intent To Revoke Annual License to NLC on April 15, 2008. (See Ex. A). Petitioner timely requested a hearing before this Tribunal pursuant to O.C.G.A. § 7-1-1018. (See Ex. B).

II. CONCLUSIONS OF LAW

1.

On motion for summary determination, the moving party must show by supporting affidavits or other probative evidence that there is no genuine issue of material fact for determination. GA. COMP. R. & REGS. r. 616-1-2-.15(1). When a motion for summary determination is made and supported, a party opposing the motion may not rest upon mere allegations or denials, but must show by supporting affidavit(s) or other probative evidence that there is a genuine issue of material fact for determination. GA. COMP. R. & REGS. r. 616-1-2-.15(3).

2.

Respondent asserts that NLC violated Georgia Code Section 7-1-1004(d) by employing an individual who committed a felony involving moral turpitude. Code Section 7-1-1004 states, in pertinent part:

The department may not issue or may revoke a license if it finds that the applicant or licensee, or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant or licensee or any individual who directs the affairs or establishes policy for the applicant or licensee, has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime which, if committed within this state, would constitute a felony involving moral turpitude under the laws of this state. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court . . . irrespective of the pronouncement of sentence or the suspension thereof, and regardless of whether first offender treatment without adjudication of guilt pursuant to the charge was entered

O.C.G.A. § 7-1-1004(d) (2008).

3.

A crime involves moral turpitude if the crime is "contrary to justice, honesty, modesty, good morals or man's duty to man." *Jarrard v. Clayton County Board of Registrars*, 262 Ga. 759, 761 (1993). Crimes designated as felonies are crimes involving moral turpitude. See *Lewis v. State*, 243 Ga. 443, 445-446 (1979); *Hall v. Hall*, 261 Ga. 188 (1991).

4.

As set forth in the Findings of Fact, *supra*, Mr. Hall was employed by NLC after he was convicted of a felony.

5.

Pursuant to Code Section 7-1-1017, the Department may revoke a license for any violation of the Georgia Residential Mortgage Act. See O.C.G.A. § 7-1-1017(a)(1). NLC violated the prohibition found in Code Section 7-1-1004(d) by employing an individual who had been convicted of a felony involving moral turpitude. Therefore, the Department's decision to revoke NLC's license based on a violation of Code Section 7-1-1004(d) was valid.

DECISION

Based on the undisputed material facts, Petitioner violated Code Section 7-1-1004(d). Accordingly, Respondent's decision to revoke Petitioner's license pursuant to Code Section 7-1-1017(a)(1) was proper. Respondent's motion for summary determination is hereby **GRANTED**, and Respondent's decision to revoke Petitioner's license is **UPHELD**.

SO ORDERED, this 3rd day of July 2008.


STEPHANIE M. HOWELLS
Administrative Law Judge

CERTIFIED MAIL

RE: NLC OF GEORGIA, INC, Petitioner

DOCKET NO.: OSAH-DBF-MBL-0831210-60-Howells

MAIL TO:

NLC OF GEORGIA, INC
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STATE OF GEORGIA**

NLC OF GEORGIA, INC.,
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v.

DEPARTMENT OF BANKING AND FINANCE,
Respondent.

Docket No.: OSAH-DBF-MBL-0831210-60-Howells

Agency Reference No.: 0831210

NOTICE OF INITIAL DECISION

This is the Initial Decision of the Administrative Law Judge (Judge) in the case. This decision is reviewable by the Referring Agency. If a party disagrees with this decision, the party may file a motion for reconsideration, a motion for rehearing, or a motion to vacate or modify a default order with the OSAH Judge. A party may also seek agency review of this decision.

FILING A MOTION WITH THE JUDGE AT OSAH

The Motion must be filed in writing within ten (10) days of the entry, i.e., the issuance date, of this decision. The filing of such motion may or may not toll the time for filing an application for agency review. See O. C.G.A. §§ 50-13-19 and 50-13-20.1. Motions must include the case docket number, be served simultaneously upon all parties of record, either by personal delivery or first class mail, with proper postage affixed, and be filed with the OSAH clerk at:

Clerk
Office of State Administrative Hearings
Attn.: Jennifer Martin, jmartin@osah.ga.gov
230 Peachtree Street, NW, Suite 850
Atlanta, Georgia 30303-1534

APPLICATION FOR AGENCY REVIEW

An application for Agency Review must be filed within thirty (30) days after service of this Initial Decision. O.C.G.A. §§ 50-13-17 and 50-13-41. A copy of the application for agency review must be simultaneously served upon all parties of record and filed with the OSAH clerk. The application for Agency Review should be filed with:

Department of Banking and Finance
Attn: Commissioner
2990 Brandywine Road, Suite 200
Atlanta, Georgia 30341.

This Initial Decision will become the Final Decision of the agency if neither party makes a timely application for agency review. O.C.G.A. §§ 50-13-17 and 50-13-41. In certain cases, an Initial Decision may become Final and therefore not subject to review either by agency provision or the provisions of O.C.G.A. § 50-13-17(c). When a decision becomes Final, an application for judicial review must be filed within thirty (30) days in the Superior Court of Fulton County or the county of residence of the appealing party. If the appealing party is a corporation, the action may be brought in the Superior Court of Fulton County or the superior court of the county where the party maintains its principal place of doing business in this state. O.C.G. A. § 50-13-19(b).