

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

**RAMSEY SUPHI AGAN d/b/a RSA
FINANCIAL,**

Petitioner,

v.

**DEPARTMENT OF BANKING AND
FINANCE,**

Respondent.

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DBF Appeal: 001

OSAH-DBF-MBL-100RW

FINAL DECISION

STATEMENT OF THE CASE

This is an administrative action resulting from an application for agency review filed by Ramsey Suphi Agan d/b/a RSA Financial (“Petitioner”) pursuant to O.C.G.A. § 7-1-1017 challenging the Initial Decision of the Office of Administrative Hearings (“OSAH”) revoking Petitioner’s License. On February 10, 2010, a hearing was held at OSAH to determine the appropriateness of the Georgia Department of Banking and Finance’s (“Department” or “Respondent”) Notice of Intent to Revoke Petitioner’s Annual License based on violations of O.C.G.A. §§ 7-1-1004(h) and 7-1-1013(11). Petitioner requested a hearing to contest the Department’s intention to revoke his annual license. On April 9, 2010, the Honorable Ronit Walker, Administrative Law Judge (“ALJ”) for OSAH, issued an Initial Decision revoking Petitioner’s license for (1) holding a mortgage license even though he had previously been convicted of a felony in violation of O.C.G.A. § 7-1-1004(h) and its predecessor statute and (2) concealing material information from the Department in violation of O.C.G.A. § 7-1-1013(11).

On May 7, 2010, Petitioner filed a Request for Agency Review pursuant to O.C.G.A. § 7-1-1071(b). In an order issued by the Commissioner on June 7, 2010, the time that the agency has to review the Order and issue a Final Decision in this case was extended through July 7, 2010.

This matter is now before the Commissioner on review, and its order shall constitute the Respondent's Final Decision in this case.

FINDINGS OF FACT

1.

In his Request for Agency Review ("Request"), Petitioner asserts that Findings of Fact Nos. 5, 6 and 9 contained in the Initial Decision are "arbitrary and capricious, and clearly erroneous in view of the reliable, probative and substantial evidence, in their entirety." Pursuant to O.C.G.A. § 50-13-41, the Commissioner has reviewed the entire record in this matter and finds that there is sufficient evidence contained in the record to support the Findings of Fact contained in the Initial Decision. The Commissioner herein adopts and incorporates the Findings of Facts as set forth in the Initial Decision.¹

2.

Petitioner also asserts that Conclusions of Law Nos. 1, 5, 7, 8, 10 and 11 and footnote 8 on page 8 of the Initial Decision "are in violation the Federal and State Constitutions, are in excess of and in violation of the statutory authority of Respondent, and are otherwise clear errors of law, in their entirety." Specifically, Petitioner contends that he has a constitutionally protected property right in his mortgage license and raises Due Process and Equal Protection challenges under the

¹ The Commissioner notes that Findings of Fact Nos. 4 and 5 of the Initial Decision appears to indicate that the Department learned of Petitioner's felony conviction for violating 18 U.S.C. § 1014 in September 2009. The transcript of the February 10, 2010 hearing indicate, however, that Petitioner first learned of Petitioner's felony conviction in June 2009. (Transcript, pp. 44-45, 123). This discrepancy does not affect the analysis contained in the Initial Decision or the analysis here.

14th Amendment of the United States Constitution. Petitioner also contends that the Georgia Residential Mortgage Act is an unconstitutional retroactive law and constitutes ex post facto laws. The Commissioner, however, is not authorized to resolve constitutional challenges and therefore cannot make findings of fact relating to these issues. *See Flint River Mills v. State Board of Workmen's Compensation*, 234 Ga. 385, 386 (1975).

3.

In addition to Petitioner's request for review of the Initial Decision, Petitioner requests review of the Order issued on January 26, 2009, denying Petitioner's Motion for Exculpatory Material and granting Petitioner's request for *in camera* review. Petitioner fails to raise any specific objections to the January 26, 2009 Order. The Commissioner has reviewed the record and finds that sufficient grounds existed for the denial of Petitioner's Motion for Exculpatory Material.

CONCLUSIONS OF LAW

The Commissioner herein adopts and incorporates the Conclusions of Law as set forth in the Initial Decision.

DECISION

The Initial Decision is hereby AFFIRMED and this Order is entered as the FINAL DECISION of the Department.

SO ORDERED, this 22nd day of June, 2010.



ROBERT M. BRASWELL
Commissioner of the Georgia
Department of Banking and Finance