

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

<b>IN THE MATTER OF:</b>	)	
	)	
<b>DEPARTMENT OF FINANCIAL INSTITUTIONS, COMPLIANCE DIVISION,</b>	)	
	)	
<b>Petitioner,</b>	)	<b>DOCKET NO. 03.06-101083J</b>
	)	<b>TDFI # 07-55-C</b>
<b>v.</b>	)	
	)	
<b>MATTHEW BEVAN COX,</b>	)	
	)	
<b>Respondent.</b>	)	

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**NOTICE OF DEFAULT AND INITIAL ORDER**

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This matter came to be heard on March 11, 2009, at 10:00 a.m. central standard time, before Administrative Judge Anthony A. Adgent of the Administrative Procedures Division of the Tennessee Department of State, sitting for the Commissioner of the Tennessee Department of Financial Institutions (hereinafter, "Commissioner"). The Compliance Division of the Tennessee Department of Financial Institutions (hereinafter, "Petitioner") was represented by Eric E. Rogers, a staff attorney with the Department of Financial Institutions. No attorney has made an appearance on behalf of Matthew Bevan Cox (hereinafter, "Respondent").

Judge Anthony A. Adgent is vested with jurisdiction to hear this matter on behalf of the Commissioner pursuant to Tenn. Code Ann. § 45-1-105 and the Tennessee Residential Lending, Brokerage and Servicing Act of 1988 as amended, at Tenn. Code Ann. §§ 45-13-101 *et seq.* (hereinafter, "Mortgage Act"). This matter is a contested case

proceeding pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301, *et seq.*, initiated by the Petitioner seeking an order permanently barring the Respondent from participating in any business activity of a registrant or licensee of the Department of Financial Institutions and from engaging in any business activity on the premises where a registrant or licensee is conducting its business, pursuant to Tenn. Code Ann. § 45-13-121.

After consideration of the pleadings, the argument of counsel, and the entire record as a whole, it is **DETERMINED** that the maximum relief requested by the Petitioner in the Notice of Charges **SHOULD** be granted. Said decision is based on the Preliminary Rulings and Order of Default, Findings of Fact, and Conclusions of Law stated below.

#### **I. PRELIMINARY RULINGS AND ORDER OF DEFAULT**

At hearing of this matter on March 11, 2009, the Petitioner's motion for default was granted pursuant to Tenn. Code Ann. § 4-5-309(a) after the Respondent failed to appear at the hearing, after having proper notice thereof on February 26, 2009. The record indicates that the Respondent was served with a Notice of Opportunity for a Hearing and of the Rights of the Respondent, a Notice of Charges, and Requests for Admission on May 23, 2008, that the Respondent did not request a hearing, or respond in any way. Having held the Respondent in **DEFAULT**, the matter was tried as uncontested pursuant to Rule 1360-4-1-.15 of the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies.

On February 20, 2009, the Petitioner filed a Notice of Hearing and Motion to Have the Requests for Admission Deemed Admitted as a Matter of Law pursuant to

Tenn. R. Civ. P. 36.01. Having found that the Respondent was served with the Requests for Admission with the Notice of Charges on May 23, 2008, and that the Respondent failed to serve upon the Petitioner a written response or objection to the Requests within forty-five (45) days, the Petitioner's Motion was granted at the hearing.

The Findings of Fact below are based on the admitted Requests for Admission as well as certified copy of the Judgment in a Criminal Case from the United States District Court for the Northern District of Georgia, Atlanta Division entered into evidence in this case.

## **II. FINDINGS OF FACT**

1. The Respondent resides at FCI Coleman Medium, Federal Correctional Institution, 846 NE 54<sup>th</sup> Terrace, Coleman, Florida 33521.

2. The Respondent's mailing address is Matthew Bevan Cox, Register # 40171-018, FCI Coleman Medium, Federal Correctional Institution, P. O. Box 1032, Coleman, Florida 33521.

3. The Respondent was served with a "Notice of Opportunity for a Hearing and of the Rights of the Respondent" and a "Notice of Charges" in the above captioned case at the address referenced in numbered Paragraph two (2), above.

4. The Respondent pled guilty to Count eight (8) (Bank Fraud) in Case No. 1:05-CR-456-1-TCB in the United States District Court, Northern District of Georgia, Atlanta Division, and sentence was imposed on November 16, 2007.

5. The Respondent pled guilty to Count one (1) (Conspiracy to Commit Bank Fraud, Wire Fraud, Social Security Fraud and Identification Document Fraud) in Case No. 1:07-CR-100-TCB in the United States District Court, Northern District of Georgia,

Atlanta Division, and sentence was imposed on November 16, 2007.

6. The Respondent pled guilty to Count one (1) (Conspiracy to Commit Bank Fraud, Wire Fraud, Social Security Fraud and Aggravated Identity Theft and Identification Document Fraud) in Case No. 1:07-CR-99-TCB in the United States District Court, Northern District of Georgia, Atlanta Division, and sentence was imposed on November 16, 2007.

7. The Respondent pled guilty to Count two (2) (Aggravated Identity Theft) in Case No. 1:07-CR-99-TCB in the United States District Court, Northern District of Georgia, Atlanta Division, and sentence was imposed on November 16, 2007.

8. The Respondent pled guilty to Count three (3) (False Statement in Application and Use of Passport) in Case No. 1:07-CR-99-TCB in the United States District Court, Northern District of Georgia, Atlanta Division, and sentence was imposed on November 16, 2007.

9. The Respondent admitted to the allegations contained in the Probation Revocation Petition in Case No. 1:07-CR-181-TCB in the United States District Court, Northern District of Georgia, Atlanta Division, and sentence was imposed on November 16, 2007.

10. The Respondent was sentenced to a total period of incarceration of three hundred sixteen (316) months for the offenses listed in numbered Paragraphs (3) through (9) above.

11. The Respondent used various names in the commission of the offenses listed in numbered Paragraphs (d) through (i) above, including but not limited to, Maxwell Price, Michael John Eckert, Gary L. Sullivan, Michael S. Shanahan, David R.

Freeman, Gerald Scott Cugno, David White, Alex Antioch, Allen James Duncan, James R. Colon, Edward Ringer, Jr., Brandon Michael Green, James Lee Redd, Scott Braun, Lee R. Black, James Monk, Joseph M. Carter, Jr., Walter A. Holcomb, Michael White and Michael John Johnson.

12. A personal money judgment in the amount of Six Million and No/100 Dollars (\$6,000,000.00) was rendered against the Respondent in Case No. 1:05-CR-456-1-TCB in the United States District Court, Northern District of Georgia, Atlanta Division.

13. The Respondent's acts, referenced in numbered Paragraphs (3) through (9) above, are reasonably related to the qualifications, functions, or duties of a person engaged in the mortgage loan business.

### **III. CONCLUSIONS OF LAW**

1. Tenn. Code Ann. § 45-13-121(a) states, in part, that "if the criminal, civil or administrative judgment involved any offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this chapter, the commissioner, after notice and an opportunity for hearing, may...bar a person from any position of management, control, employment or providing services for any licensee or registrant or other person subject to the commissioner's jurisdiction, if the commissioner finds that the...(2) person has been (A) convicted of or pled guilty to or pled nolo contendere to any crime..."

2. Tenn. Code Ann. § 45-13-121(b) states that "persons suspended or barred under this section are prohibited from participating in any business activity of a registrant or licensee and from engaging in any business activity on the premises where a registrant or licensee is conducting its business..."

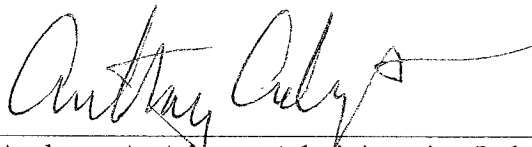
3. Tenn. Code Ann. § 45-13-121(c) states “this section shall apply to any violation, conviction, plea, or judgment after July 1, 2001.”

4. The Findings of Fact set forth above show by a preponderance of the evidence that the Respondent was convicted of criminal offenses reasonably related to the qualifications, functions or duties of a person engaged in the mortgage business.

#### IV. ORDER

IT IS THEREFORE **ORDERED, ADJUDGED AND DECREED** that the Respondent, Matthew Bevan Cox, is hereby permanently barred from any participation in any business activity of a registrant or licensee of the department and from engaging in any business activity on the premises where a registrant or licensee is conducting its business.

This Initial Order entered and effective this 26<sup>TH</sup> day of MARCH, 2009.

  
\_\_\_\_\_  
Anthony A. Adgent, Administrative Judge

Filed in the Administrative Procedures Division this 26<sup>TH</sup> day of March, 2009.

  
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Thomas G. Stovall, Director

## **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, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., 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.