



12-2-2010

Aaron Slutsky, Petitioner, vs. Department of Financial Institutions, Compliance Division, Respondent

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

IN THE MATTER OF:

**Aaron Slutsky,
Petitioner,**

Vs.

**Department of Financial Institutions,
Compliance Division,
Respondent.**

**DOCKET NO: 03.06-109609J
TDFI No.: 10-141-C**

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on December 2, 2010, at the offices of the Tennessee Department of Financial Institutions, before Administrative Judge Steve R. Darnell, assigned by the Administrative Procedures Division of the Tennessee Department of State, and sitting for the Commissioner of the Tennessee Department of Financial Institutions pursuant to T.C.A. §4-5-301(d). The Department of Financial Institutions was represented by attorney Eric Rogers. The Petitioner, having received proper notice of this hearing, failed to appear or otherwise participate. Upon motion of the Department, the Petitioner was held in **DEFAULT**, and Petitioner's request for a hearing was **DISMISSED**.

FINDINGS OF FACT

1. Petitioner applied to the Department for a license as a mortgage loan originator. The Department denied Petitioner's application, and Petitioner initiated this hearing pursuant to T.C.A. § 45-13-301(a) of the Tennessee Residential Lending, Brokerage and Servicing Act.
2. Petitioner was provided proper notice of the hearing by the Department as well as by pre-hearing order issued by the undersigned Administrative Judge.

3. Petitioner failed to appear at the hearing or otherwise participate in the hearing. No one appeared on Petitioner's behalf.

CONCLUSIONS OF LAW

1. Hearings pursuant T.C.A. § 45-13-301(a) are to be conducted in compliance with T.C.A. § 45-13-301(a) of the Uniform Administrative Procedures Act, provided, that the individual has requested a hearing in writing within 30 days following the date of the Commissioner's denial as required by T.C.A. § 45-13-302(d).

2. At the hearing, the burden of proving that the individual is entitled to a mortgage loan originator license shall be on the individual as required by T.C.A. § 45-13-302(d) of the Tennessee Mortgage Act.

3. T.C.A. § 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.”

4. TENNESSEE. 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....”

5. TENNESSEE 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 1360-4-1-.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.”

6. TENNESSEE 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.”

IT IS THEREFORE ORDERED that the Department’s motion for default is granted and Petitioner’s request for a hearing is **DISMISSED**.

This Initial Order entered and effective this 2nd day of December, 2010.

Steve R. Darnell
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 2nd day of December, 2010.



Thomas G. Stovall, Director
Administrative Procedures Division