

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Docket No. 22-032067

Case No. 22-1075-L

Petitioner,

v

Ryan McKeon

NMLS No. 957975

Respondent.

ISSUED AND ENTERED

**on February 2, 2023
by Sarah Wohlford, Esq.
Senior Deputy Director**

FINAL DECISION AND ORDER OF PROHIBITION

I. INTRODUCTION

On November 4, 2022, Administrative Law Judge Alexander Cartwright issued a Proposal for Decision (“PFD”). Based on the PFD’s findings of fact and conclusions of law, Judge Cartwright recommended that the Director issue an Order of Prohibition pursuant to section 27(3) of the Mortgage Loan Originator Licensing Act, 1987 PA 173, as amended, MCL 493.131 *et seq.* (the “Act”). The PFD’s findings of fact are in accordance with the preponderance of the evidence, and the PFD’s conclusions of law are supported by reasoned opinion. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. See, e.g., *Attorney General v. Public Service Comm’n*, 136 Mich App 52 (1984); see also MCL 24.281. For these reasons, and as set forth below, the PFD is adopted in full and the Director hereby issues this FINAL DECISION AND ORDER OF PROHIBITION pursuant to Section 27(3) of the Act, MCL 493.157(3).

II. FINDINGS OF FACT

The findings of fact in the PFD are adopted in full and made part of this Final Decision.

III. CONCLUSIONS OF LAW

The conclusions of law in the PFD are adopted in full, made a part of this Final Decision, and restated herein as follows:

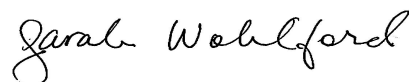
1. The Department of Insurance and Financial Services (“Petitioner”) bears the burden of proving, by the preponderance of the evidence, that Ryan McKeon (“Respondent”) violated the Act by engaging in fraud.
2. The evidence establishes that Respondent altered closing documents, which Respondent subsequently provided to three borrowers with the intention that those borrowers would falsely believe that their loans had closed. The evidence also establishes that Respondent’s conduct harmed those borrowers, each of whom relied upon Respondent’s statements and therefore failed to make timely payments on existing mortgage loans. Because the three borrowers failed to make timely payments on their existing mortgage loans, their credit ratings were damaged. Respondent’s conduct constitutes fraud as the term is used in the Act, see section 27(15) of the Act, MCL 493.157(15).
3. Petitioner therefore has met its burden of proving, by the preponderance of the evidence, that Respondent violated the Act by engaging in fraud.
4. Pursuant to Section 27(3) of the Act, MCL 493.157(3), the Director may issue an order of prohibition from being licensed under the Act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts.

IV. ORDER

Therefore, it is **ORDERED** that that:

- A. The PFD is adopted and made part of this Final Decision and Order of Prohibition.
- B. In accordance with Section 27(3) of the Act, MCL 493.157(3), Respondent is hereby **PROHIBITED** from being licensed under the Act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial acts.
- C. In accordance with Section 27(4) of the Act, MCL 493.157(4), this **ORDER OF PROHIBITION** remains in effect until it is stayed, modified, terminated, or set aside by the Director or a reviewing court.
- D. In accordance with Section 27(5) of the Act, MCL 493.157(5), Respondent may apply to the Director to terminate the order after 5 years from the date on which this Final Decision and Order of Prohibition is issued.

Anita G. Fox, Director
For the Director:



Sarah Wohlford, Esq.
Senior Deputy Director

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

Docket No.: 22-032067

**Department of Insurance and
Financial Services,
Petitioner**

Case No.: 22-1075-L

**Agency: Department of Insurance
and Financial Services**

v

**Ryan McKeon,
Respondent**

Case Type: DIFS-Insurance

Filing Type: Appeal

**Issued and entered
this 4th day of November 2022
by: Alexander Cartwright
Administrative Law Judge**

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

This matter, brought under the Mortgage Loan Originator Licensing Act, MCL 493.131 *et seq.*, (hereafter "Act"), concerns a Notice of Intention to Prohibit and Statement of Factual Allegations issued by the Department of Insurance and Financial Services (DIFS) Petitioner, on September 12, 2021, containing allegations against Ryan McKeon, Respondent. On August 31, 2022, Petitioner, filed a Request for Hearing with the Michigan Office of Administrative Hearings and Rules (MOAHR).

On September 14, 2022, MOAHR issued a Notice of Telephone Hearing, scheduling a hearing at 9:00 a.m. on October 17, 2022.

On October 17, 2022, a hearing was held by telephone as scheduled. Attorney Gary Grant appeared on behalf of Petitioner. Respondent appeared on his own behalf. Respondent was called by Petitioner as the sole witness at the hearing. Petitioner offered the following exhibits, which were admitted into the record as evidence without objection:

Exhibit P-1 – DIFS Memorandum of Interview re: Ryan D. McKeon, dated March 14, 2022 and March 18, 2022.

Exhibit P-2 – Email correspondence, internal to DIFS and between DIFS and Respondent, dated March 18, 2022.

Exhibit P-3 – Letter from Michigan Mutual Mortgage, dated January 19, 2022.

Respondent did not offer any exhibits into evidence.

The evidentiary record was closed at the conclusion of the hearing.

ISSUES AND APPLICABLE LAW

The issue presented in this matter, as set forth on the Notice of Telephone Hearing, is whether Respondent's actions were in compliance with the Act.

Section 27 of the Act, MCL 493.157, provides in pertinent part:

Sec. 27. (1) If in the opinion of the commissioner an individual has engaged in fraud, the commissioner may serve on that person a written notice of intention to prohibit that individual from being licensed under this act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), shall set a hearing on a date within 60 days after the date of the notice. If the individual does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being licensed under this act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts.

(4) An order issued under subsection (2) or (3) is effective when served on an individual. The commissioner shall also serve a copy of the order upon the licensee of which the individual is an

employee or agent. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the individual subject to the order may apply to the commissioner to terminate the order.

* * *

(9) The commissioner shall mail a copy of any notice or order issued under this section to the employer or principal of the individual subject to the notice or order.

(10) Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that includes findings of fact supporting the decision and serve on each party to the proceeding a copy of the decision and an order consistent with the decision.

(11) Except for a consent order, a party to the proceeding or a person affected by an order issued under this section may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(12) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (11) does not stay the commissioner's order.

(13) The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under this section.

(14) Any individual who violates a final order issued under this section is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

(15) As used in this section, "fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic

fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

FINDINGS OF FACT

Based on the record as a whole, including the pleadings¹ and admitted exhibits, the following findings of fact are found to be established:

1. Respondent was licensed under the Act as a mortgage loan originator between October 27, 2012, and March 18, 2022.
2. On March 7, 2022, Petitioner initiated a complaint investigation to determine whether Respondent's actions were in compliance with the Act. Petitioner's investigation revealed fraudulent activity as follows:
 - (a) On October 22, 2021, Respondent's then employer, Michigan Mutual, Inc., identified three borrowers, with four loan transactions where Respondent generated false closing documents and provided them to the borrowers. Respondent generated the false closing documents, sent them to the borrowers for signature, and told the borrowers that their loans were closed upon their signing of the documents. The borrowers relied upon Respondent's false representation and stopped making their existing mortgage payments because they believed that their previous loans had been paid off. Because they failed to continue their loan payments, the borrowers' credit ratings were damaged.
 - (b) The borrowers that Respondent provided the false closing documents to were KS, for a primary home and secondary home mortgage, SR for a primary home mortgage, and AA-G for a primary home mortgage.
 - (c) On October 25, 2021, Respondent admitted to his employer that he had provided false closing documents to the borrowers stated above.
 - (d) On March 14, 2022, Respondent admitted to DIFS staff that he altered the closing documents for the above-mentioned borrowers and presented them to the borrowers so that they would falsely believe that their loans had closed.

¹ Respondent testified at the hearing that all the allegations contained within Petitioner's Statement of Factual Allegations were true.

- (e) On or about March 18, 2022, Respondent surrendered his mortgage loan originator license.
3. Per the credible testimony of Respondent, Respondent had been experiencing schizophrenia at the time he provided fraudulent closing documents to the above-mentioned borrowers. Due to Respondent's condition, Respondent was unable to rationalize why he had provided the fraudulent documents to the borrowers or why he had misled them.
 4. On November 1, 2021, Respondent was hospitalized after his wife discovered Respondent speaking to a hallucination in his living room, per Respondent's credible testimony.
 5. Per Respondent's credible testimony, Respondent has been attending therapy and taking medication to address his medical condition since Respondent's release from the hospital.
 6. At the hearing, Respondent testified that he takes full responsibility for his actions and believes he should not be allowed to work in the mortgage loan industry due to his medical state.

CONCLUSIONS OF LAW

Petitioner bears the burden of proving, by a preponderance of evidence, that Respondent violated the Act as alleged in the Notice of Intention to Prohibit. As the Michigan Supreme Court has stated, "[p]roof by a preponderance of the evidence requires that the fact finder believe that the evidence supporting the existence of the contested fact outweighs the evidence supporting its nonexistence." *Blue Cross and Blue Shield of Michigan v Milliken*, 422 Mich 1; 367 NW2d 1 (1985). A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it. *Martucci v Ballenger*, 322 Mich 270; 33 NW2d 789 (1948).

Upon review of the evidence, it is established that Respondent fraudulently prepared closing documents and provided them to three borrowers with the intention to make them falsely believe that their loans had closed. The evidence further establishes that this fraudulent behavior resulted in harm to borrowers, each of whom relied on Respondent's statements and failed to make timely payments on their existing mortgage loans. Finally, at hearing Respondent did not dispute the allegations within Petitioner's Statement of Factual Allegations and testified that he currently should not be allowed to work in the mortgage industry due to his ongoing mental condition.

While Respondent's testimony indicates that he suffered from schizophrenia at the time the incidents occurred, and further demonstrated a sincere remorse for his actions, Respondent did not assert that he was unaware that his actions had been fraudulent and did not assert that his condition was the direct cause of this fraudulent behavior. Rather, Respondent indicated at hearing that he agrees that he should be prohibited from working in the mortgage industry.

While the undersigned finds Respondent's testimony commendable, as well as his genuine remorse and willingness to seek medical assistance, the undersigned must find that the preponderance of evidence establishes that Respondent has engaged in fraud within the meaning of the Act and is therefore subject to disciplinary action under Section 27(3) of the Act.

PROPOSED DECISION

Based on the above Findings of Fact and Conclusions of Law, the Tribunal proposes that the Director issue an Order of Prohibition consistent with the provisions of Section 27(3) of the Act.

EXCEPTIONS

In accordance with MCL 24.281 and Mich Admin Code, R 792.10132, a party may file Exceptions to this Proposal for Decision (PFD) within 21 days after the PFD is issued. An opposing party may file a Response to Exceptions within 14 days after exceptions are filed. Exceptions/Responses shall include the case name and docket number and be sent by e-mail (preferred) to: MOAHR-GA@michigan.gov, by regular mail to: MOAHR-General Adjudication, P.O. Box 30695, Lansing, MI 48909, or by fax to: 517-335-7535. Also, a copy of Exceptions/Responses must be sent by e-mail to: swinsonr@michigan.gov or by regular mail to: Department of Insurance and Financial Services, Office of General Counsel—Attn: Randie Swinson, P.O. Box 30220, Lansing, Michigan, 48909. A copy of any Exceptions/Responses must be timely sent to all other parties and attorneys of record in this matter.



Alexander Cartwright
Administrative Law Judge