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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Lower Court Case No. 23-ALJ-30-0335-CC

South Carolina Department of Consumer Affairs, Respondent,

v.

Lavisha Green, Appellant.

Appellate Case No. 2024-001652

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Consumer Affairs, Petitioner, vs. Lavisha Green, Respondent.	Docket No. 23-ALJ-30-0335-CC **FINAL ORDER AND DECISION**

APPEARANCES: For the Petitioner: Zachary A. Passmore, Esq.
James C. Copeland, Esq.

For the Respondent: *Pro se*

STATEMENT OF THE CASE

This case is before the Administrative Law Court (ALC or court) pursuant to a request for a contested case hearing filed by Lavisha Green (Respondent) on August 8, 2023. The Respondent challenges the determination of the South Carolina Department of Consumer Affairs (Department) that she failed to timely submit her mortgage log and its decision to impose a $9,000.00 fine as a result. Generally, the Respondent does not dispute that she failed to timely file the mortgage log but maintains that it was an innocent mistake as a new broker and that the penalty imposed is excessive under the circumstances.

A hearing in this matter was held on November 14, 2023, at the ALC in Columbia, South Carolina. After careful consideration of the evidence presented, the applicable law, and the arguments of the parties, the court upholds the penalty imposed by the Department.

FINDINGS OF FACT

Having carefully considered all testimony, exhibits, and arguments presented at the hearing in this matter, and considering the credibility and accuracy of the evidence, the court makes the following findings of fact by a preponderance of the evidence:

1. The Respondent has a mortgage broker license in South Carolina, operating under the entity Fab Seven, LLC. That entity was first issued its license on July 1, 2021, and has been continuously licensed since.

2. On January 23, 2023, the Department notified the Respondent via email at "realtorlavishagreen@gmail.com" informing her that she is required by law to file a mortgage log by March 31, 2023.
3. On February 15, 2023, the Department again notified the Respondent at the aforementioned email address that a mortgage log or a written attestation of "no activity" needed to be submitted by the March 31st deadline.
4. On March 14, 2023, the Department once again notified the Respondent via email that she was required to file a mortgage log by March 31st. This notice further provided that, pursuant to South Carolina law, a fine of $100 per day would be imposed for late or incomplete submissions.
5. On April 6, 2023, the Department notified the Respondent that it had not received her mortgage log for 2022. The notice included a reminder regarding the $100 per day late fee imposed for failing to timely file mortgage logs.
6. By email to the Respondent dated June 30, 2023, the Department notified the Petitioner that it did not receive her mortgage log by the March 31, 2023, deadline. The notice provided that the Department had imposed a statutory penalty of $100 for each day the mortgage statement was late, resulting in a $9,000.00 accrued fine as of the date of the notification. This email was sent to the same "realtorlavishagreen@gmail.com" email address used by the Department for its earlier correspondence to the Respondent regarding her mortgage log. The email also indicates that this notice was sent via U.S. mail as well.
7. By email dated July 5, 2023, the Respondent reached out to the Department seeking assistance regarding the penalty imposed. As part of this correspondence, the Respondent forwarded emails from 2022 between her and the Department expressing confusion over the mortgage log filing process. The email address used by the Respondent in the 2022 emails is the same email address used by the Department in their notices regarding her mortgage log submission for 2023.[1]
8. Thereafter, on August 8, 2023, the Respondent filed a request for a contested case hearing with this court.
9. At the hearing, Karri Boyer Hawley testified on behalf of the Department. Ms. Hawley is a licensing attorney at the Department and assists license examiners with compliance issues

[1] It is unclear from the exhibit submitted which email the Respondent used to send the July 5, 2023, correspondence.

and application renewals. She testified to the requirements regarding the annual submission of a mortgage log and the training that mortgage broker licensees participate in regarding that requirement, among other things. Ms. Hawley testified that the Respondent was sent notices regarding the requirement in January, February, March, and April. She stated that the notices were sent to the email provided to the Department, and to the Multiple Listing Service (MLS), by Ms. Green and that she received no indication that the notices were undeliverable. Ms. Hawley noted that the Respondent timely submitted her 2021 mortgage log in 2022, which would have been the first year she was required to file a log following her licensure in 2021.

10. Ms. Green also testified at the hearing. She did not dispute that she failed to submit her mortgage log by the March 31st deadline, but noted that it was only her second year in business and that she was confused by the continuing education materials regarding the requirement. Ms. Green also testified that she changed her email since she filed the prior year, but acknowledged receiving the June 30, 2023, notice regarding the fine and conceded that she did not update her email in the MLS system. She argued that the fine was unreasonable, particularly given the fact that she was not notified of the fine until after ninety (90) days had passed and $9,000.00 in penalties had accrued. Given that, she asked for the fine to be reduced.

CONCLUSIONS OF LAW

Based upon the above findings of fact, the court concludes the following as a matter of law:

1. Section 1-23-600 of the South Carolina Code grants jurisdiction to this court to hear contested cases under the Administrative Procedures Act. S.C. Code Ann. § 1-23-600 (Supp. 2023). Specifically, Section 40-58-90 grants the ALC the authority to hold contested case hearings in matters arising from the Department. S.C. Code Ann. § 40-58-90(A) (2011).
2. Unless otherwise required by law, the standard of proof in an administrative proceeding, such as this, is by a preponderance of the evidence. S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2023); *Anonymous (M-156-90) v. State Bd. of Med. Exam'rs*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1998) (citation omitted). A "preponderance of the evidence" is evidence which convinces as to its truth. *Frazier v. Frazier*, 228 S.C. 149, 168, 89 S.E.2d 225, 235 (1955).

3. In this state, the Department is charged with regulating mortgage broker licensees, and every person acting as a mortgage broker in South Carolina must be licensed by the Department. *See* S.C. Code Ann. § 40-58-30(A) (2011).
4. Licensed mortgage brokers must submit a mortgage log containing certain information to the Department by March 31st of each year. *See* S.C. Code Ann. § 40-58-65(A) (Supp. 2023); *see also* S.C. Code Ann. Regs. 28-400(D)(1) (Supp. 2023) (noting the requirement for mortgage brokers to file a mortgage log with the Department).
5. Pursuant to statute, "[t]he licensee *shall* pay a fine of one hundred dollars a day for late or incomplete data submissions." S.C. Code Ann. § 40-58-65(A) (emphasis added). "Ordinarily, the use of the word 'shall' in a statute means that the action referred to is mandatory." *S.C. Dep't of Highways and Pub. Transp. v. Dickinson*, 288 S.C. 189, 191, 341 S.E.2d 134, 135 (1986) (citation omitted); *see also Collins v. Doe*, 352 S.C. 462, 470-71, 574 S.E.2d 739, 743 ("Under the rules of statutory interpretation, use of words such as 'shall' or 'must' indicates the legislature's intent to enact a mandatory requirement.") (citations omitted).

DISCUSSION

In this case, the Respondent does not dispute that she did not file her 2022 mortgage log by the March 31, 2023, deadline. Rather, she argues that she is a new licensee who was confused by or not fully aware of the filing requirements and made a mistake. The Respondent contends that the penalty is unreasonable and asks this court for leniency with respect to the amount imposed by the Department. Though the court is inclined to agree that the monetary penalty imposed in this case for a new licensee with no prior disciplinary infractions seems disproportionate to the Appellant's conduct in this case, as set forth below, the court regrettably finds that it lacks discretion to reduce the penalty.

Pursuant to Section 40-58-65(A) of the South Carolina Code, licensees "*shall* pay a fine of one hundred dollars a day for late or incomplete data submissions." S.C. Code Ann. § 40-58-65(A) (emphasis added). The statute does not provide for any lesser or alternative penalties, and the use of the word "shall" implies a mandatory requirement. *See S.C. Dep't of Highways and Pub. Transp.*, 288 S.C. at 191, 341 S.E.2d at 135 (citation omitted); *Collins*, 352 S.C. at 470-71, 574 S.E.2d at 743. Thus, this court is without authority to alter the mandatory statutory penalty of one hundred dollars ($100) a day for late submissions.

Here, the Respondent does not dispute that she failed to timely file her 2022 mortgage log and offers no explanation for this failure other than a lack of experience and some confusion regarding the filing requirements. While it is clear that the Respondent's omission in this case was due in large part to her inexperience, the court is without discretion to reduce or alter the penalty in any way given the statute's mandatory language. Consequently, the court is constrained to uphold the $9,000.00 penalty imposed by the Department on the Respondent for her failure to timely file her 2022 mortgage log.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the court finds that the Department's decision to impose a $9,000.00 fine for the Respondent's failure to timely file her mortgage log must be upheld.

IT IS THEREFORE ORDERED that the Respondent shall pay the Department the penalty imposed in the amount of $9,000.00, subject any payment plan, penalty modifications, or alternative arrangements the Department may offer.[2]

AND IT IS SO ORDERED.

S. Phillip Lenski
Administrative Law Judge

August 2, 2024
Columbia, South Carolina

[2] The court appreciates the candor of Ms. Green and is sympathetic to the financial difficulties resulting from the imposition of such a substantial fine. Following closing argument, the court asked counsel for the Department for its position on the penalty amount and whether leniency was allowed under the statute. The Department took the position that it was just enforcing the statute as written and had no authority to deviate from the one hundred dollar ($100) per day penalty imposed by the statute. While the court's ability to offer leniency in this case is foreclosed by the mandatory statutory language regarding the penalty, the court rejects the idea that the Department—as the licensing authority in this matter—could not stipulate to a reduced number of days as part of settlement negotiations with the Respondent, suspend some portion of the penalty, or offer a long-term payment option to her. Given the facts of this case, the Respondent's neophyte status and her otherwise clean record, the court encourages the Department to work with the Respondent so as not to create an unsurmountable financial barrier to her returning to practice as a mortgage broker.

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

Erika S. Easler
Judicial Law Clerk

August 2, 2024
Columbia, South Carolina

The State of South Carolina
FILED
AUG 02 2024
Administrative Law Court

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT DIVISION
Docket No. 23-ALJ-30-0335-CC

South Carolina Department)
of Consumer Affairs,)
)
Petitioner,)
)
v.)
)
Lavisha Green,)
)
Respondent.)
_________________________)

ADMINISTRATIVE HEARING

****

Tuesday, November 14, 2023
10:15 a.m. - 12:04 p.m.

The hearing before the Honorable Sebastian Phillip Lenski was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 14th day of November 2023, before Cortney N. Glover, RPR, Certified Court Reporter and Notary Public in and for the State of South Carolina.

MR. PASSMORE: Yes, your Honor, I am.

THE COURT: Okay.

OPENING STATEMENT:

MR. PASSMORE: Good morning, your Honor.

THE COURT: Good morning.

MR. PASSMORE: My name is Zach Passmore. May it please the Court. And this is my co-counsel, Jim Copeland, and we represent the Department of Consumer Affairs. The Department is the State's consumer protection agency. Its mission it to protect consumers from inequities in the marketplace through advocacy, mediation, enforcement, and education. And one of the ways the Department is able to accomplish its mission is through its regulatory authority over certain industries such as mortgage brokers.

The Mortgage Broker Act begins at Section 40-58-10 of the South Carolina Code of Laws, and the industry is also governed by Regulation 28-400 of the South Carolina Code of Regulations. The case before you today is a simple one. One of the requirements to maintain a mortgage broker license in South Carolina is to submit a mortgage log that contains data on all the mortgage applications and loans the mortgage broker processed during the reporting year.

Code Section 40-58-65 requires mortgage brokers to submit their annual mortgage log to the Department by March 31st each year, and the General Assembly requires the Department to provide a report to it by June 30th of each year. The General Assembly clearly stated that licensees shall pay a fine of $100 a day for late or incomplete data submissions.

The Department will show that Ms. Green, as a component of her pre-license education curriculum, was instructed on her requirement to submit an annual mortgage log to the Department and the resulting penalty for noncompliance. Instruction on the requirement is also included in the curriculum for her annual continuing education that mortgage brokers are required to complete. The Department maintains an industry-specific webpage providing licensees with all the information needed to maintain their license. Additionally, your Honor will see that Fab Seven, LLC, was reminded three times leading up to the March 31st deadline.

Despite these notices sent to the email address the licensees provided, the Department did not receive Fab Seven, LLC's, mortgage log by the deadline, which prompted to the Department to issue yet another advisory email to her a week later. Likewise, this final notice did not prompt Ms. Green to submit Fab Seven, LLC's, log even though it was explicitly made aware of the accruing fine.

The Department did not receive Fab Seven, LLC's, mortgage log until July 10th, 2023, after receiving my June 30th notice of the Department's final action imposing the $9,000 fine. The Department believes that the fine imposed on Fab Seven, LLC, is consistent with the black letter law and therefore respectfully request that this Court affirm the Department's decision. Thank you, your Honor.

THE COURT: Thank you.

Ms. Green, this is your opportunity to give me an opening statement if you wish to do so. That is not the presentation of your case. It's just sort of an explanation or a beginning of what you intend to show when it's your time to present your case. So you don't have to give me an opening statement. But if you have a brief opening statement, just like we heard from the petitioner in this matter, you're welcome to do so at this time.

MS. GREEN: No.

THE COURT: Okay. You're just gonna wait till it's your turn to present your evidence?

MS. GREEN: Yes.

THE COURT: All right. That's fine. No problem at all. The respondent waives opening.

And so at this time, Petitioner, are you ready to proceed with your case?

MR. PASSMORE: Yes, your Honor.

THE COURT: All right. Good.

PETITIONER'S CASE IN CHIEF

MR. PASSMORE: Your Honor, the State calls Ms. Kerri Boyer Hawley to the stand.

THE COURT: All right. Ms. Hawley, could you please face the court reporter and be sworn in before you sit down?

COURT REPORTER: Do you solemnly swear that the testimony you give today will be the truth, the whole truth, and nothing but the truth, so help you God?

MS. BOYER HAWLEY: I do.

KERRI BOYER HAWLEY, having been duly sworn, testifies as follows:

THE COURT: Please be seated and make yourself comfortable.

While we're waiting, could you just go ahead and give us your full name for the record?

MS. BOYER HAWLEY: Sure. It's Kerri, K-E-R-R-I, Boyer, B as in boy, O-Y-E-R, Hawley, H-A-W-L-E-Y.

THE COURT: Thank you.

MR. PASSMORE: Your Honor, may I approach the witness?

THE COURT: You certainly may.

MR. PASSMORE: Thank you, sir. Just handing over the exhibits for Ms. Boyar Hawley to observe, and I have a -- copies here for you as well, your Honor.

THE COURT: Yes. Thank you. You can just ---

MR. PASSMORE: Just approach?

THE COURT: Yeah. That's fine. Thank you.

MS. BOYER HAWLEY - DIRECT EXAMINATION BY MR. PASSMORE:

Q: Good morning. Could you please state your

name for the record?
A: Sure. It is Kerri Boyer Hawley.
Q: Thank you. And where are you currently employed?
A: At the South Carolina Department of Consumer affairs.
Q: And what is your current title?
A: Licensing attorney.
Q: How long have you been with the Department?
A: A little over four years. Since September 2019.
Q: And how long have you been in your current role?
A: That entire time.
Q: Can you describe your job duties at the Department?
A: I am the -- again, the licensing attorney for all of the Department's regulated industries. So I assist the license examiners with compliance issues with applicants, issues of compliance with renewals of applicants. I respond to various inquiries from the industry. I respond to the majority of the industry inquiries regarding various compliance issues for all of our regulated

industries, one of which would be mortgage brokers.

Q: Okay. So as you just described, the Department does license mortgage broker that operate in South Carolina?

A: Yes, we do.

Q: Is Ms. Green's company, Fab Seven, LLC, a licensed mortgage broker?

A: Yes, it is.

Q: And was it issued its initial license on July 1st, 2021?

A: Yes, it was.

Q: Has it been licensed continually since?

A: Yes.

Q: Can you please give us a quick overview of the licensing process for mortgage brokers.

A: Yes. Since the real estate bust of the late 2000s, the mortgage licensing goes through a system called NMLS, which formerly stood for Nationwide Mortgage Licensing System, and it now stands for Nationwide Multistate Licensing System. But the Dodd Frank Act after the real estate issues and around 2008-'09 led to the creation of this kind of licensing clearinghouse. And all applicants file their applications through NMLS, and we review the applications on NMLS. And all communication typically regarding a license are through NMLS.

Q: Do mortgage brokers have any annual reporting requirements?

A: They do. They have two annual reports that they're required to submit.

Q: Is one of these annual reporting requirements the submission of a mortgage log?

A: Yes.

MR. PASSMORE: Your Honor, at this time I'd like to enter in Exhibit 1 for the State that I have handed to Ms. Boyer Hawley.

(Petitioner's Exhibit Number 1 was referenced at this time.)

THE COURT: All right. Ms. Boyer [sic], have you seen Exhibit 1 that he intends to offer? Do you have any objection to that document?

OBJECTION BY THE RESPONDENT

MS. GREEN: Yeah. I -- he sent it to me yesterday. I objected because I told him it wasn't relevant to the case.

THE COURT: Okay.

MS. GREEN: And I didn't want it to be presented.

And the reason why I feel like it's not relevant to the case is because I accepted the fine.

THE COURT: Okay. Just -- you did receive the -- you did receive notice from the Department that this would be introduced as an exhibit, did you not?

MS. GREEN: And I objected it.

THE COURT: Right. And you said was irrelevant.

MS. GREEN: Yes.

COURT'S DECISION ON OBJECTION:

THE COURT: Right. Okay. Objection overruled. The exhibit may be admitted.

(Petitioner's Exhibit Number 1 was admitted into evidence.)

MR. PASSMORE: Thank you, your Honor.

Q: So Ms. Boyer Hawley, I just handed you State's Exhibit 1. Could you please describe to the Court what it is?

A: It is a -- it is the mortgage broker page on the Department of Consumer Affairs website.

Q: Okay. Would you mind looking at State's Exhibit 2, please, and describe to the Court what it is.

(Petitioner's Exhibit Number 2 was referenced at

this time.)

A: This is the first page of the mortgage -- the South Carolina mortgage log instructions and -- the first page of the mortgage log instructions.

Q: And these instructions are linked to that website?

A: Right. They are -- there's a link to them on the website.

Q: Thank you. Would you please take a look at Exhibit 3 and describe to the Court what it is.

(Petitioner's Exhibit Number 3 was referenced at this time.)

MR. PASSMORE: Oh, I apologize, your Honor. At this time I'd like to move Exhibit 2 into evidence as well.

THE COURT: Okay. Well, we were talking about Exhibit 1, weren't we?

MR. PASSMORE: I apologize, your Honor. I moved from Exhibit 1 and led into Exhibit 2.

THE COURT: Okay. Exhibit 2 is ---

MR. PASSMORE: They're kind of related.

THE COURT: Okay, okay.

So, Ms. Hawley -- Ms. Green, Exhibit 2,

and I'm going to let Exhibit 2 into evidence.
And now 3.

(Petitioner's Exhibit Number 2 was admitted into evidence.)

MR. PASSMORE: Thank you, your Honor.

THE COURT: We're at 3?

MS. GREEN: Yes, sir. We're on State's Exhibit 3.

THE COURT: So 1, 2, and 3 are in evidence. Thank you.

(Petitioner's Exhibit Number 3 was admitted into evidence.)

MR. PASSMORE: Yes, sir -- yes, your Honor.

THE COURT: And, Ms. Green, you keep objecting if you have a problem with an exhibit. Don't -- make sure you put your objections on the record, okay, so if you ---

MS. GREEN: Okay. Your Honor, can I say something, your Honor?

THE COURT: You may.

MS. GREEN: I think that's Exhibit 4 -- I mean, Exhibit 5 justifies what I say when I responded. It was about continuing education. It wasn't about anything else.

THE COURT: Okay. Let's -- how about we wait till we get to Exhibit 5.

MS. GREEN: Okay.

THE COURT: And then I'm gonna let you put all that on the record, okay?

MS. GREEN: Okay.

THE COURT: Yes, ma'am. I'ma just keep things tight in the record, okay?

MS. GREEN: Okay.

THE COURT: Thank you.

Go ahead.

MR. PASSMORE: Thank you, your Honor.

Q: Exhibit 3; correct?

THE COURT: Ms. Hawley --

Back to Ms. Hawley; right?

MR. PASSMORE: Yes, your Honor.

THE COURT: All right.

Q: Ms. Hawley, would please take a look at State's Exhibit 3 and describe to the Court what it is.

(Petitioner's Exhibit Number 3 was referenced at this time.)

A: This is a page from -- NMLS has a page called the regulator resources. And this page has the links with all of the documents -- or all of the -- you can click on a state and the State can see what NMLS is giving to vendors who do continuing education because NMLS administers continuing education and pre-licensing education. And this is the list of all the information they have gathered from the State regulators to give to potential vendors.

MR. PASSMORE: Okay. At this time, your Honor, I'd like to enter that into State's evidence?

THE COURT: This is 3; right?

MR. PASSMORE: Yes, your Honor.

THE COURT: Okay. And subject to Ms. Green's objections, which I believe are the same with all these documents ---

MR. PASSMORE: Yes, your Honor.

THE COURT: --- Exhibit 3 is admitted.

(Petitioner's Exhibit Number 3 was admitted into evidence.)

MR. PASSMORE: Thank you, your Honor.

Q: Ms. Hawley, could you please take a look at Exhibit 4 and describe to the Court what it is.

(Petitioner's Exhibit Number 4 was referenced at this time.)

A: Yes. This is the document part. It's for the Board of Financial Institutions and the

Department of Consumer Affairs. We have the same education requirements, so we do it jointly.

This is a document that NMLS has prepared based on the information we have given them. They send it to us, and we review it. And then they give this to the companies offering the pre-licensing education.

MR. PASSMORE: Your Honor, at this time I'd like to enter that in as State's evidence.

THE COURT: All right. Ms. Green, any objection to Exhibit 4?

OBJECTION BY THE RESPONDENT:

MS. GREEN: Yes. Now that you've educated me, I understand what you're saying. My objection would be that it's really not relevant to the case. Because when I responded, I responded and stated that it does not -- the continuing education does not educate you on the submission for the mortgage call log.

I was stating that when it's being presented when you're being educated, it's stating that you have to submit the mortgage call log report. So when it's being further.

We're gonna go back on the record. We're gonna assume Ms. Green, by her own volition, has removed herself from this proceeding and is no longer here, and I will the Department go ahead and continue.

MR. PASSMORE: Thank you, your Honor.

THE COURT: Yes, sir. Thank you.

Q: Ms. Hawley, before our break we were discussing Exhibit 4 that I had handed to you. That document, Exhibit 4, is a pre-licensing document; correct?

(Petitioner's Exhibit Number 4 was referenced at this time.)

A: It is.

Q: Okay.

A: Pre-licensing education document, uh-huh.

Q: Yes. Thank you. Is the mortgage log requirement addressed in that document?

A: It is on the top of the second page. It is. It is there.

Q: Do all mortgage brokers have to complete this training before they are issued a license?

A: They do.

Q: Did Ms. Green complete this training?

A: She did.
Q: Okay. I've have handed you previously State's Exhibit 5. Could you please describe to the Court what it is.

(Petitioner's Exhibit Number 5 was referenced at time.)

A: It is a similar document to Exhibit 4, except this one is for continuing education. So it for the Board of Financial Institutions and the Department of Consumer Affairs, and it is the list of items that we require continuing education companies to include for their continuing education ---

MS. GREEN: I apologize. Sorry, your Honor.

THE COURT: All right. Let the record reflect that the respondent Ms. Green has re-entered the courtroom.

Ms. Green, we had kind of given up on you, so I'm glad you're back. We had just gone back on the record. Mr. Passmore was examining the witness on Exhibit 4, which was what we are talking about when we took the recess that started all of this.

And so at this point, Mr. Passmore, if it wouldn't be too much trouble if you could just kind of maybe back up maybe, what, three minutes we've been on the record.

MR. PASSMORE: Absolutely, your Honor.

MS. GREEN: I'm okay. I'm not gonna object because I understood what you said earlier. But thank you.

THE COURT: All right.

MS. GREEN: I'm not gonna object.

THE COURT: Okay. But he still needs to put it on the record.

MS. GREEN: Okay.

THE COURT: And you -- and since you're now here just -- if we could just go back to where we were.

MR. PASSMORE: If we could back up to Exhibit 4, your Honor?

THE COURT: About three minutes.

MR. PASSMORE: Yes, sir.

THE COURT: Yes, sir. Thanks, Mr. Passmore.

MR. PASSMORE: Yes, sir.

Q: So, yes, Ms. Hawley, could you please describe again Exhibit 4.

(Petitioner's Exhibit Number 4 was referenced at this time.)

A: Exhibit 4. This is the list of requirements that the Board of Financial Institutions and the Department of Consumer Affairs -- South Carolina -- had given -- have gave to NMLS to create this document for companies wanting to offer pre-licensing education for license applicants.

Q: And it's correct that it is a pre-licensing document, correct, regarding pre-licensing?

A: Uh-huh, pre-license education; yes.

Q: Okay. Is the mortgage log requirement addressed in that document?

A: It is. The top of the second page it is there.

Q: Do all mortgage brokers have to complete this training before being issued a license?

A: Yes, they do.

Q: And did Ms. Green complete this training?

A: Yes, she did.

Q: Okay. So just proceeding to State's Exhibit 5 that I have handed to you, would you please describe what that is?

(Petitioner's Exhibit Number 5 was referenced at this time.)

A: This is a similar document to Exhibit 4. It is for the Board of Financial Institutions

and the Department of Consumer Affairs. It is the list of requirements, of items that must be included in continuing education each year.
Q: And that is a continuing education-related document; correct?
A: It is.
MR. PASSMORE: Okay. At this time I'd like to enter Exhibit 5 into the record.
THE COURT: Exhibit 5 is admitted.
(Petitioner's Exhibit Number 5 was admitted into evidence.)
MR. PASSMORE: Thank you, your Honor.
Q: Is the mortgage log requirement addressed in that document, Ms. Hawley?
A: It is. It is at the bottom of page 1.
Q: Do all mortgage brokers have to complete this training before they can renew their license?
A: Yes, they do.
Q: And did Ms. Green complete this training?
A: Yes, she did.
Q: Were all of the sources of information in the proceeding exhibits that I have -- that we've discussed, are they available for mortgage brokers to access prior to the mortgage log

deadline?
A: Not these education documents. But the mortgage log instructions and those -- the board -- the Department of Consumer Affairs website. But these documents, no. These are documents that we send to the vendors.
Q: Okay. Do you send the reminders to mortgage brokers of the upcoming deadline to submit their annual mortgage log report?
A: Yes.
MR. PASSMORE: Okay. May I approach the witness, your Honor?
THE COURT: You may.
Q: Can I get these stack of exhibits from you, please? Thank you. And I'll just place these here.
Could you please explain your process reminding the brokers of the mortgage log requirement?
A: Yes. I send out reminder emails. I send one out in January, one out in February, one out in March, and then one the first week of April after they've missed the deadline.
Q: I just handed you State's Exhibit 6. Could you please describe to the Court what it is.

(Petitioner's Exhibit Number 6 was referenced a this time.)

A: Yes. This is my January reminder email that I sent from the mortgage log email box to all licensees, all mortgage broker licensees. That's the company. I send it to all companies reminding them, notifying them of the mortgage log requirement and the due date and where they would find the instructions and the data form.

Q: When did you send that first reminder?

A: January 23rd.

Q: Of 2023?

A: Of 2023, yes, sir.

Q: Thank you. Could you please take at a look at Exhibit 7 and describe to the Court what it is.

(Petitioner's Exhibit Number 7 was referenced at this time.)

A: This is an email that I sent from the mortgage log email box dated February 15th, 2023, and it's the second notice. And I send it to those who have not yet submitted a mortgage log.

Q: Would you please take a look at Exhibit 9 and

describe to Court what it is?
A: Exhibit 9.
Q: I apologize, Exhibit 8.

(Petitioner's Exhibit Number 8 was referenced at this time.)

A: This is an email I sent from the mortgage log mailbox dated March 14th, 2023, and it's the final notice that I send to those who have not yet submitted their mortgage log.
Q: Is Ms. Green's company on all of those emails?
A: It is. It is.
Q: Thank you.

MR. PASSMORE: At this time, your Honor, I'd like to move to enter Exhibits 7, 8, and 9 into the record.

THE COURT: All right.

MR. PASSMORE: Admit 6 as well. I apologize.

THE COURT: All right. Ms. Green, the -- Mr. Passmore has moved 6 -- Exhibits 6, 7, 8, and 9 into the record. Do you have any objection to those documents?

OBJECTIONS BY THE RESPONDENT:

MS. GREEN: Yes, your Honor.

THE COURT: Okay. Go ahead. What are your

Q: Ms. Hawley, could you please take a look at Exhibit 9 and explain to the Court what it is?

(Petitioner's Exhibit Number 9 was referenced at this time.)

A: This is a email I sent from the mortgage log email box on April 6th, 2023, notifying all those who had not submitted their mortgage log that they have missed the deadline and to hurry up because the fines were accruing.

Q: Thank you.

MR. PASSMORE: At this time I'd like to enter Exhibit 9 into evidence.

THE COURT: All right. Exhibit 9, any objection to Exhibit 9, Ms. Green?

OBJECTION BY THE RESPONDENT:

MS. GREEN: Again, it's outdated and I never received it.

THE COURT: Okay. Same objections as before?

MS. GREEN: Yes.

THE COURT: All right. Mr. Passmore?

RESPONSE BY THE PETITIONER:

MR. PASSMORE: Same response as before, your Honor. They were sent in 2023 concerning the 2022 mortgage log to the contact information provided to the Department -- or provided to NMLS that the Department then uses to contact licensees.

COURT'S DECISION ON OBJECTION:

THE COURT: All right. So, Ms. Green, for the same reason that I overruled your objections to 6, 7, and 8, I overrule your objection to Exhibit 9. The Department asserts that those were sent to you in 2023, again. They may involve information about 2022, but they were sent in 2023 and they were sent to the address that the Department had for you, which was apparently provided by you.

And so, again, you'll have a full and fair opportunity to explore all that when you get your chance to present your case. But I am gonna overrule your objection and allow Exhibit 9 into evidence.

All right. Go ahead, Mr. Passmore.

Q: Ms. Hawley, do you recall receiving any notification from any of these emails that you sent that they were returned undeliverable from Ms. Green's address?

A: I did not receive an undeliverable notice.

Q: To your knowledge, did Fab Seven, LLC, submit

a mortgage log last year on time?
A: They did.
Q: To your knowledge, did Fab Seven, LLC, submit a mortgage log this year on time?
A: They did not.
Q: Thank you, Ms. Hawley, I have no further questions. But please answer any the Court or Ms. Green may have.

THE COURT: All right. Ms. Green, this is your opportunity to cross-examine the witness. Again, this isn't your time to present your case in full, but you have the -- this is your time to now examine and ask questions of Ms. Hawley about anything that she has testified to so far.

MS. GREEN: Well ---

THE COURT: Let me just clarify. Can you hear the respondent from here? Does she need to move?

All right. So at -- the Court's fine with you remaining in your seat if you're comfortable doing that, Ms. Green.

MS. GREEN: Yes.

MS. HAWLEY - CROSS-EXAMINATION BY MS. GREEN:

Q: Ms. Hawley, normally when you send me an email, I respond back to you. Did you

receive any responses back to me this year?
A: Well, send this in a mass email. I send out to 1200 people -- 1200 companies.
Q: All right. In 2022 when you sent it out, did you receive a response back from me when you would send a notification?
A: Well, I received your mortgage log in 2022.
Q: When you sent the final notification in 2022, did I respond back to you and ask you is there something I was missing and you advised that I needed to send a mortgage log over to SC -- consumer affairs?
A: I don't recall. Do you have the document?
Q: Yes.
A: Okay. I'm sure I probably did.
Q: Would you like to see it?
A: I mean, that's sounds reasonable that that happens quite a bit.
MS. GREEN: And would you like to see it or no?
MR. PASSMORE: Yes, we would like to see it, your Honor.
MS. GREEN: I'm sorry. Give me just a second.
It's taking me a minute.
I can't find the other page, but this is the one where I sent over -- I sent this to

MS. GREEN: No. Don't ---

THE COURT: --- before you start testifying, which I am gonna do. But you're not ready to testify yet.

You just -- at this point you've given Ms. Hawley this document. What questions do you have of Ms. Hawley about this document?

MS. GREEN: I ask her ---

THE COURT: You can ask her those questions.

Q: That's the last question I asked you. Did you -- did I respond back to you when you sent me the final notice in 2022?

A: This was the second notice. And it was -- this was a mass mailing I send to the list. And you did. And you wrote back and asked me what this was.

MS. GREEN: Okay. That was my question.

THE COURT: Did you have any further questions of this witness either about that document or anything else? This is your chance to ask her about any questions you have about what she's just told the Court.

Q: Did I communicate with you at all in 2023?

A: I don't recall. I do have -- there's thousands. And I don't mean that to disparage any -- with the licensees, there's just so many. But a majority of the people whom I do send the mass mailing to don't reply. They just -- they'll just send a mortgage log.

MS. GREEN: That's it. No more questions.

THE COURT: No more questions.

All right. Any redirect?

MR. PASSMORE: Just a second, your Honor.

THE COURT: That's fine.

MR. PASSMORE: Your Honor, we would like to redirect ---

THE COURT: Go ahead.

MR. PASSMORE: --- just briefly.

THE COURT: You may proceed.

MS.BOYER HAWLEY - REDIRECT EXAMINATION BY MR. PASSMORE:

Q: Ms. Hawley, this is just so we're clear. The exhibits that we discussed were pertaining to the mortgage log submission that was due in 2023 and that -- Ms. Green's exhibit that she just submitted to you was for her submission that was due in 2022 ---

A: Yes, correct.

Q: --- correct?

Who provides email contact information to NMLS?

A: The companies put their email address into the NMLS system, and I generate a report that's -- regulators can generate various reports. So I generate one that's called Companies by Contact Information. I generate that report in January. And whatever email is in the NMLS system is the email address that it spits out.

Q: And whose responsibility is it to change their contact information?

A: It's the licensee's.

Q: Thank you.

MR. PASSMORE: No further questions, your Honor.

THE COURT: All right. Thank you.

Ms. Hawley, you can return to your seat. Thank you very much.

(Witness excused.)

MR. PASSMORE: And I'll just add this to this stack, your Honor.

THE COURT: Yes. Okay. If you'll call your next witness?

MR. PASSMORE: No further witnesses, your Honor.

THE COURT: No further witnesses. All right.

Anything further?

MR. PASSMORE: Nothing further.

THE COURT: So the Department rests?

MR. PASSMORE: The Department rests.

THE COURT: All right.

MR. PASSMORE: Yes, sir.

THE COURT: Thank you very much.

All right. So now, Ms. Green, the Department has rested its case. And it is now your turn to present your case. Are you ready to go?

MS. GREEN: Yes.

THE COURT: Okay. So before we begin, I'm gonna have you placed under oath because you're now gonna be testifying. And so if you would just stand and raise your hand to be sworn in by the court reporter. You can stand right there.

COURT REPORTER: Do you solemnly swear that the testimony you give today will be the truth, the whole truth, and nothing but the truth, so help you God?

MS. GREEN: Yes.

LAVISHA GREEN, having been duly sworn, testifies as follows:

THE COURT: Okay. Thank you. And now, Ms. Green, the court porter's indicated she can take your -- she can get your testimony at -- from her seating position. So if you are more comfortable remaining in your seat rather than standing, that's fine. You -- but however you're more comfortable, you can -- you may tell the Court whatever you would like for us to hear -- me to hear.

<u>RESPONDENT'S CASE IN CHIEF</u>

<u>MS. GREEN - TESTIMONY BY MS. GREEN</u>:

MS. GREEN: This is my second year in the business. The continuing education information that's available for us, it is confusing for me, being new in the business and also having two point of contacts at the consumer affairs office. My point of contacts normally would be --

Is it pronounced Brian, Byron?

MR. GIBBS: Bryon.

MS. GREEN: --- and Kerri. Normally when something comes through to me, I would immediately respond to them. In this case, I did immediately respond because the only document I received was the document that stated that the $9,000 was due. I never received the other emails.

When I received the document, I reached out to my main point of contact and I asked him can he help me because I did not understand what the fee was -- why I was receiving the charge. Then I had started communicating through email with Attorney Copeland and Attorney Passmore.

And I continued to explain to them, hey, it was a mistake. And I asked them can we negotiate on this fee so I can close it out. I really don't want to fight about it. Clearly the rules are the rules. I made a mistake.

As time went by, we just continued communicating with one another. And he stated that the reason why I received it in 90 days is because they have a small group that's working in the office so the $9,000 fee would be the fee that I would have to pay. And I just feel like the time frame of receiving this documentation was unreasonable; the dollar amount that's being requested is unreasonable and unfair.

Because it appears when I received the notification letter, it should have been another dollar amount presented to say $9,000, but it appears as if it should have been another dollar amount presented with more time and then if I did not pay, I would be charged. Like, if you're late ten days, you're notified that you're being charged X amount of dollars. In this case, I received this 90 days. And it's like your fee is $9,000. And I just think that the timing was unreasonable.

THE COURT: Anything else?

MS. GREEN: No.

THE COURT: No further questions. All right. So now Mr. Passmore is gonna ask you some cross-examination questions.

Mr. Passmore, are you ready to proceed?

MR. PASSMORE: Yes.

MS. GREEN - CROSS-EXAMINATION BY MR. PASSMORE:

Q: Ms. Green, hi there. When you filed your request for a contested case hearing, you provided the email that I sent regarding this fine to the address that is in question to realtorlavishagreen@gmail.com; is this correct?

A: I communicated with you guys through sevenmortgagelg, but the contested case, no, it was lgreen@fabsevenllcbrokerage.com.

Q: Well, what I'm asking is the -- as a part of your submission for the request for a contested case hearing, you're required to submit an agency decision with that request. You attached an email regarding the agency's decision dated July 3rd, 2023. And that email address that received it was realtorlavishagreen@gmail.com; is that correct?

A: The notification, yes. The correspondence with the late fee?

Q: Uh-huh.

A: Yes, it was received at that email. But then that's why I explained to you guys that I no longer use that email.

And the only reason why it caught my attention is because of the $9,000. I don't even know why I was there, but I used two different emails. When I submitted my mortgage call log the year when I was on time, I entered a different email address.

It was sevenmortgagelg@gmail.com.

Q: Can you provide any evidence showing that you changed your contact email with NMLS prior to my June 30th letter that you received on July 3rd through email?

A: No. But my mortgage call log from 2022, it does show the sevenmortgagelg@gmail.com email address. And I changed -- well, you know, I did change my email address. It's two -- I had to change it twice because of my loan origination number and the business origination number. So I changed it for the business -- no. I changed it for my personal -- my loan origination ---

Q: Uh-huh.

A: --- to my business email. And I did not know that I needed to change it for the business. So when you sent information to realtorlavishagreen.com, I do receive it. I receive -- but I never received the late fees. I would have immediately reached out to one of them because they would have helped me and told me exactly what I needed to do.

Kerri, I'm sorry. Not one of them.

MR. PASSMORE: No further questions, your Honor.

THE COURT: Thank you, Ms. Green.

MS. GREEN: You're welcome.

THE COURT: All right. Based on those questions that you were asked, Ms. Green, did you have anything further you want the Court to consider?

<u>MS. GREEN - TESTIMONY BY MS. GREEN</u>:

MS. GREEN: The time frame that I received the correspondence stating that the $9,000 would be the fee, I received that 90 days after the due date. And I feel as if I should have received it before then. So I'm not disputing the fact that that fine is valid. Because now I've been educated, I'm actually asking for the fee to be reduced, if that makes sense.

THE COURT: All right. Okay. Thank you, Ms. Green.

At this time do you have a rebuttal case or anything?

MR. PASSMORE: No, your Honor.

THE COURT: All right. No case rebuttal. The parties have both closed, concluded their presentation of evidence. I'll -- if the parties would like to make closing remarks, I'll hear those now.

MR. PASSMORE: Yes, your Honor. I have a brief closing argument.

THE COURT: Okay.

CLOSING ARGUMENTS:

MR. PASSMORE: Your Honor, the evidence has shown that information regarding the mortgage log requirement is ready available to licensees. Furthermore, it has been demonstrated that Ms. Green has received instruction on this requirement as part of her pre-licensing education and her continuing education.

On top of this, the Court as seen that as courtesy Ms. Hawley sent three reminders of the mortgage log deadline starting in January before the March 31st deadline to submit it. She also sent a reminder out less than a week after the deadline had occurred.

Code Section 40-58-65 explicitly defines the penalty for a late or incomplete mortgage log submission and it's set at $100 per day. The Department simply enforced the law as it is written. It was finally the imposition of this fine on June 30th that led Ms. Green to finally submit Fab Seven, LLC's, mortgage log on July 10th.

Again the Department believes that the fine imposed upon Fab Seven, LLC, is consistent with the law as it is written and respectfully asks this Court to affirm the Department's decision to do so. Thank you, your Honor.

THE COURT: Thank you.

Ms. Green, did you have a closing statement you wanted to make to the Court?

MS. GREEN: Yes. Is it okay if I sit from my chair, or do you want ---

THE COURT: Yes, ma'am. You can go ahead from your chair.

CLOSING ARGUMENTS:

MS. GREEN: Again, I am not opposing the fine. I understand it through education after the fact. Before, I was not aware. I've never received the late emails. My -- whenever I receive any correspondence from Consumer Affairs, I immediately respond back. I presented evidence that showed the communication between Kerri -- Ms. Kerri and I. Also in addition do that, the communication between Mr. King and I. Any time that they would contact me or I'm aware that there is something that's going on, I immediately respond to them to correct the issue. Because I am new. I am learning. Now that I am fully aware of all the rules of law, it is not happen again, and I'm just asking for lenience on the fee. And that's it.

QUESTIONS AND FINAL REMARKS:

THE COURT: That you, Ms. Green. Before we conclude, I wanted to ask the parties, does the Department seek any way that this Court was moved to think that a lesser amount would be appropriate? Is there any -- do you see any latitude in the statute in the ability for the Court to award a fine of a smaller amount? It really just needs to come down to the size of the fine.

And the respondent here is admitting while she does dispute some about notice -- of whether she got the notice and her address changed -- and, of course, that's up for the Court to consider all of that -- but, you know, what I'm hearing from the respondent is clearly that she's -- she doesn't disagree

that it was her error and that she is more than ready to resolve this if there would be some way for a lesser amount of fine to be levied in lieu of what's being proposed.
What say you?

MR. PASSMORE: Yes, your Honor. Well, it's our position, the Department, that we are just enforcing the law as it is written. We do not believe that it gives us the discretion to lower fine without a higher authority. We're enforcing statute as set at $100 a day. We have offered previously and are still willing to accept a payment plan to pay the fine over time.

THE COURT: And I believe, in perusing the statute, there was something to the effect of a person's license is held in abeyance until -- I guess, it's actually -- I think the term be "revoked" until the fine's been satisfied. If there's some kind of payment plan to be worked out with the Department, did you -- do you believe the Department would have the ability to relicense the individual so that then they can continue practicing while they over time paid off the fine?

MS. GREEN: Yes, your Honor, so long they are adhering to the payment plan that is set out and they've agreed to it.

THE COURT: Yes, sir. All right. Thank you for answering that question.

Ms. Green, thank you very much. I'm sorry about your parking issue. I'm sorry that that happened. I hope you got that resolved. But thank you for presenting everything, and I will take everything into consideration and I will have my question shortly. Thank you very much. Have a great day.

(There being no further matters, the hearing concluded at 12:04 p.m.)

You can file a complaint and submit applications for licensing online. Filings you do not wish to make, or that are not available, online can be submitted via mail for processing.

Department staff is available to assist with any questions at (800) 922-1594 (toll free in SC) or 803-734-4200 8:30 a.m. until 5 p.m. Monday through Friday, excluding State holidays. You can also email general questions to scdca@scconsumer.gov.

Mortgage Brokers

The Mortgage Broker Act requires that all businesses offering mortgage brokerage services, includes loan correspondents, table-funding and independent contractor (third party) loan processors and underwriters, in the State file with the S.C. Department of Consumer Affairs using the NMLS. The current Initial Filing Fee is $750. Renewal Fee is $550. **NMLS processing fees are not included.**

All licensees and new applicants must submit all filings through the Nationwide Mortgage Licensing System and Registry (NMLS). Additional instructions for the NMLS can be found at the NMLS Resource Center.

A recent change in South Carolina's Mortgage Lending Act and Mortgage Broker Act goes into effect September 16, 2017. For information, see our press release (PDF).

If you submit your application before midnight on September 15, 2017, you will have to comply with existing requirements including:

- Taking the South Carolina state-specific test
- Providing a state criminal background check

If you submit your application after midnight on September 15, 2017, you will need to complete three hours of pre-licensing education. *However*, you will NOT have to (1) take South Carolina state-specific test, or (2) provide a state criminal background check.

Please note the Department's new physical address is 293 Greystone Blvd., Ste. 400 | Columbia, SC | 29210

****Mailings may still be sent to PO Box 5757 | Columbia, SC | 29250-5757****

Helpful Links

NMLS Resource Center

NMLS consumer access

BUSINESS RESOURCES

GET LATEST FROM DCA

RESPOND TO A COMPLAINT

General Information

- COVID Guidance Rescission (PDF) (Updated 7/22/2022)
- Interim Guidance for Mortgage Brokers Re. Working Remotely from Unlicensed Location & Mortgage Log Submission (PDF) (Updated 7/30/2020)

Questions?

Licensing Examiner
(803) 734-4249

Deborah Friday Lockard
Licensing Supervisor
(803) 734-4209

Mortgage Log 2022

****NOTE**: Completed Mortgage Logs are due by **March 31, 2023** **

- Mortgage Log Data Entry Form (XLSX)*
- Mortgage Log Instructions & FAQs (PDF)

- How to Export from HMDA Software (PDF)
- HMDA Loan Application Register Code Sheet (PDF)

*When opening the Excel file, you must choose "Save As" and save it to your computer.

Law

- Senate Bill 366 - Amendments to the Mortgage Lending Act and Mortgage Broker Act
- Statute - S.C. Code Ann. §§40-58-10 - 40-58-130
- Regulation 28-400 Effective 6/26/2015 (PDF)
- High Cost and Consumer Home Loan Act
- Financial Identity Fraud and Identity Theft Protection Act
- Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Mortgage Licensing Act of 2008)

Licensing Instructions and Forms

- Mortgage Broker Forms
- Pre-licensing Education (PE) and Continuing Education (CE)
- Review and Advisory Board Fee Worksheet for Determining High Cost Loan (PDF)
- High Cost Loan Checklist (PDF)
- Mortgage Broker Advertising Standards and Guidelines (PDF)
- Referral Fees Prohibited

Reports

- View the Mortgage Log Reports and DCA's 2007 Mortgage Fraud Report.

Additional Information

- U.S. Department of Housing and Urban Development Letter (PDF)

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293 Greystone Boulevard, Ste. 400
Columbia, SC 29210
(803) 734-4200

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SOUTH CAROLINA MORTGAGE LOG INSTRUCTIONS

To assist licensees with filing the annual mortgage log, the Department of Consumer Affairs has developed this detailed set of instructions that contain the definition of each data element, the instructions for entering the data element correctly, and an example that shows the correct format of the data entry. The examples show the correct format and not necessarily the correct answer or value (code) that must be submitted. The correct answer or value (code) is based on the licensee's specific loan and/or application data.

South Carolina law requires all mortgage brokers and mortgage lenders/servicers to file a mortgage log each year directly with the State of South Carolina. **This log is separate from the mortgage call report filed with the Nationwide Multistate Licensing System & Registry ("NMLS"), and the HMDA report that lenders file with the CFPB.** The mortgage log submitted must be in the format determined by the South Carolina Department of Consumer Affairs ("DCA") and the South Carolina Board of Financial Licensees ("BOFI"). BOFI instructs its licensees to file directly with DCA. The following guidance is provided to assist licensees in completing and submitting the mortgage log to DCA.

Who has to file?

- All licensed **mortgage brokers** must file pursuant to S.C. Code Ann. § 40-58-65 regardless of the number of loan originations made in 2022. The mortgage log data must include all data required by S.C. Code Ann. § 40-58-65 and identified in 12 CFR Part 1003 et seq., on South Carolina residential mortgage applications and loans, including loans in process, closed loans, turndowns, denials, and withdrawals. If no credit decision was made during 2022 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity." Third Party Processors and Underwriters should also submit a written attestation of "No Activity – Third Party Processor/Underwriter."

- All licensed **mortgage lenders/servicers** must file pursuant to S.C. Code Ann. § 37-22-210 regardless of the number of loan originations made in 2022. The mortgage log data must include the data required by S.C. Code Ann. § 37-22-210 and identified in 12 C.F.R. Part 1003, et seq., on South Carolina residential mortgage applications and loans. If no credit decision was made during 2022 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity." Mortgage Servicers should also submit a written attestation of "No Activity – Mortgage Servicer."

When is the mortgage log due?

A complete mortgage log must be submitted no later than March 31, 2023. Pursuant to S.C. Code Ann. § 40-58-65 for mortgage brokers and § 37-22-210 for mortgage lenders/servicers, there is a fine of **$100 per day** for late or incomplete data submissions.

How do I submit the mortgage log?

Email the completed form to mortgagelog@scconsumer.gov with the file name in the following format:

Company NMLS # – Company Name *Example:* 12345 – ABC Mortgage Company, LLC

What if information changes after I submit the report?

All licensees are required to correct and submit a correcting amendment if any information contained in the original filing becomes inaccurate or incomplete in any material way.

Who is available to answer questions about the mortgage log data submission?

After searching these instructions, state laws, and supplemental federal regulation information, licensees may contact DCA by calling (803) 734-4256 or emailing mortgagelog@scconsumer.gov.

PETITIONER'S EXHIBIT 30-335 2 11/14/23

State Education Notices

	Education Notices
Arizona PE State Specific Education Notice	Arizona Department of Insurance and Financial Institutions (AZ-D Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
California-DFPI PE State Specific Education Notice	California Department of Financial Protection and Innovation (CA Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Colorado PE State Specific Education Notice	Colorado Department of Regulatory Agencies (DORA) Pre-licens outlines the required topics to be covered in the 2 hour state spe education (PE) requirement.
Connecticut PE State Specific Education Notice	Connecticut Department of Banking (CT-DOB) Pre-licensure Edu the required topics to be covered in the 1 hour state specific pre-l requirement
Connecticut CE State Specific Education Notice	Connecticut Department of Banking (CT-DOB) Continuing Educa the required topics to be covered in the 1 hour state specific conti requirement
District of Columbia PE State Specific Education Notice	District of Columbia Department of Insurance, Securities and Ban Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Florida PE State Specific Education Notice	Florida Office of Financial Regulation (FL-OFR) Pre-Licensure Ed outlines the required topics to be covered in the 2 hour state spec education (PE) requirement.
Florida CE State Specific Education Notice	Florida Office of Financial Regulation (FL-OFR) Continuing Educa the required topics to be covered in the 1 hour state specific Cont requirement
Hawaii PE State Specific Education Notice	Hawaii Division of Financial Institutions (HI-DFI) Pre-licensure Ed outlines the required topics to be covered in the 3 hour state spec education (PE) requirement.
Idaho PE State Specific Education Notice	Idaho Department of Finance (ID-DOF) Pre-licensure Education (required topics to be covered in the 2 hour state specific pre-licen requirement
Indiana SOS PE State Specific Education Notice	Indiana Secretary of State (IN-SOS) Pre-licensure Education (PE required topics to be covered in the 2 hour state specific pre-licen requirement
Kentucky CE State Specific Education Notice	Kentucky Department of Financial Institutions (KY-DFI) Continuin outlines the required topics to be covered in the 1 hour state spec (CE) requirement
Maryland PE State Specific Education Notice	Maryland Department of Labor, Licensing, and Regulation (MD-D Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Massachusetts PE State Specific Education Notice	Massachusetts Division of Banks (MA DOB) Pre-Licensure Educ the required topics to be covered in the 3 hour state specific pre-l
Michigan PE State Specific Education Notice	Michigan Department of Insurance and Financial Services (MI-DI Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Minnesota CE State Specific Education Notice	Minnesota Department of Commerce (MN-DOC) Continuing Edu the required topics to be covered in the 1 hour state specific Cont requirement
Mississippi PE State Specific Education Notice	Mississippi Department of Banking and Consumer Finance (MS-D Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Missouri CE State Specific Education Notice	Missouri Division of Finance (MO-DOF) Continuing Education (CE required topics to be covered in the 1 hour state specific continuin requirement
Montana PE State Specific Education Notice	Montana Division of Banking and Financial Institutions (MT-DBFI) (PE) Notice outlines the required topics to be covered in the 4 hou licensure education (PE) requirement.

Nebraska PE State Specific Education Notice	Nebraska Department of Banking & Finance (NDBF) Pre-Licensu outlines the required topics to be covered in the 2 hour state spec education (PE) requirement
Nevada PE State Specific Education Notice	Nevada Division of Mortgage Lending Pre-licensure Education (P required topics to be covered in the 4 hour state specific pre-licen requirement
NV Qualified Employees CE State Specific Education Notice	Qualified Employees are required to complete 1 hour Nevada spe preceding 12 months to their designation This notice outlines the this 1 hour state specific continuing education (CE) requirement.
New Hampshire PE State Specific Education Notice	New Hampshire Banking Department (NHBD) Pre-Licensure Edu outlines the required topics to be covered in the 2 hour state spec education (PE) requirement.
New York PE State Specific Education Notice	New York Department of Financial Services (NY-DFS) Pre-licens outlines the required topics to be covered in the 3 hour state spe
North Carolina PE State Specific Education Notice	North Carolina Commissioner of Banks Office (NCCOB) Pre-licen Notice outlines the required topics to be covered in the 4 hour sta education (PE) requirement.
Ohio PE State Specific Education Notice	Ohio Division of Financial Institutions Consumer Finance Section Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Oklahoma PE State Specific Education Notice	Oklahoma Department of Consumer Credit (OK-DOCC) Pre-licen Notice outlines the required topics to be covered in the 1 hour sta education (PE) requirement.
Oregon PE State Specific Education Notice	Oregon Department of Consumer and Business Services (OR-DC Education (PE) Notice outlines the required topics to be covered i pre-licensure education (PE) requirement.
Oregon CE State Specific Education Notice	Oregon Department of Consumer and Business Services (OR-DC (CE) Notice outlines the required topics to be covered in the 2 ho education (CE) requirement.
Pennsylvania PE State Specific Education Notice	Pennsylvania Department of Banking and Securities (DOBS) Pre Notice outlines the required topics to be covered in the 3 hour sta education (PE) requirement.
Rhode Island PE State Specific Education Notice	Rhode Island Division of Banking Regulation (RI-DBR) Pre-licens outlines the required topics to be covered in the 3 hour state spec education (PE) requirement.
Rhode Island CE State Specific Education Notice	Rhode Island Division of Banking Regulation (RI-DBR) Continuing outlines the required topics to be covered in the 1 hour state spec (CE) requirement
South Carolina PE State Specific Education Notice	South Carolina BFI and DCA Pre-Licensure Education (PE) Notic topics to be covered in the 3 hour state specific PE requirement I have its own course approval.
South Carolina CE State Specific Education Notice	South Carolina DCA and BFI Continuing Education (CE) Notice o to be covered in the 1 hour state specific continuing education (C agency is required to have its own course approval
Tennessee PE State Specific Education Notice	Tennessee Department of Financial Institutions (TDFI) Pre-Licens the required topics to be covered in the 2 hour state specific pre-l requirement.
Texas PE State Specific Education Notice	Texas Department of Savings and Mortgage Lending (TX-SML) P (PE) Notice outlines the required topics to be covered in the 3 ho licensure education (PE) requirement.
Utah Post Licensure CE State Specific Education Notice	UT-DRE Post Licensure Continuing Education Notice outlines the covered in the 5 hour state specific post licensure continuing edu
Utah 2023 CE State Specific Education Notice	Utah Division of Real Estate (UT-DRE) Continuing Education (CE the required topics to be covered in the 2023 1 hour state specific (CE) requirement.
Vermont PE State Specific Education Notice	Vermont Department of Financial Regulation (VT-DFR) Pre-licens outlines the required topics to be covered in the 2 hour state spec education (PE) requirement.
Washington PE State Specific Education Notice	Washington Department of Financial Institutions (WA-DFI) Pre-lic Notice outlines the required topics to be covered in the 4 hour sta education (PE) requirement.
Washington CE State Specific Education Notice	Washington Department of Financial Institutions (WA-DFI) requir Assistance (DPA) flyer be provided as a resource to those comple Washington state-specific CE.
West Virginia PE State Specific Education Notice	West Virginia Division of Financial Institutions Pre-Licensure Edu the required topics to be covered in the 4 hour state specific pre-l requirement
West Virginia CE State Specific Education Notice	West Virginia Division of Financial Institutions Continuing Educat the required topics to be covered in the 2 hour state specific con requirement

Last Review: 07/21/2021
Last Revision: 04/11/2019

South Carolina State Board of Financial Institutions (SC-BFI)
South Carolina Department of Consumer Affairs (SC-DCA)
Pre-Licensure Education (PE) Notice

Purpose
The purpose of this notice is to inform NMLS approved course providers of the required topics to be covered in the 3-hour state specific pre-licensure education (PE) requirement which must be met as a condition for obtaining a mortgage loan originator (MLO) license with either the South Carolina State Board of Financial Institutions or the South Carolina Department of Consumer Affairs.

PE requirements are as follows:
- 3 hours of Federal law;
- 3 hours of Ethics;
- 2 hours of non-traditional mortgage lending;
- 9 hours of general electives;
- 3 hours of South Carolina state-specific defined electives

Total PE: 20 Hours

SC-BFI and SC-DCA have established the following required learning objectives and topics list for the 3 hours of state-specific PE.

Required Learning Objectives:
- Understand the mission of SC-BFI and SC-DCA and be familiar with different business entities and license types each oversees.
- Know when to provide the attorney insurance preference form to consumers and ascertain the consumer's preference as required by S.C. Code Ann. § 37-10-102.
- Identify where NMLS ID numbers are required on documentation as required by S.C. Code Ann. § 37-22-110, et seq. and S.C. Code Ann. § 40-58-10, et seq.
- Understand how to comply with required provisions of S.C. Code Ann. § 37-22- 140(K) when licensed mortgage lenders act as a mortgage broker.
- Explain how to disclose fees properly on mortgage broker fee agreement and the timeline in which the mortgage broker fee agreement must be provided (S.C. Code Ann. § 40-58-75).
- Understand the consequences associated with failure to properly sign application forms.
- Articulate the requirements associated with the disclosure that identifies the agency designated to receive complaints or inquiries from the consumer (S.C. Code Ann. § 37-23-70).
- Describe how state law is different from federal law regarding prohibited activities and mortgage broker fee agreement (S.C. Code Ann. § 40-58-70, 75 & 78; S.C. Code Ann. § 37-22-190).

- Understand the mortgage log requirement (S.C. Code Ann. § 37-22-210; S.C. Code Ann. § 40-58-65).

Required Topics:

- General Provisions of the Department's and the Board's Structure and Supervision
- Licensing and Operation of Mortgage Brokers
- Licensing and Operation of Mortgage Lenders
- Examinations
- Surety Bond Requirements
- Escrow Accounts
- Disclosures and Advertising
- Amendments to Mortgage Broker Act and Mortgage Lending Act effective September 16, 2017, including definitions, licensing a residence, and when a mortgage lender also needs a mortgage broker license
- Enforcement
- Disciplinary Actions
- Prohibited Acts; Penalties

References:

Main Industry Statutes

- Mortgage Lending Act (S.C. Code Ann. § 37-22-110, et seq.)
- Licensing of Mortgage Brokers Act (S.C. Code Ann. § 40-58-10, et seq.)
- High-Cost and Consumer Home Loans Act (S.C. Code Ann. § 37-23-10, et seq.)
- Mortgages and Deeds of Trust Generally (S.C. Code Ann. § 29-3-10, et seq.)
- Reverse Mortgages (S.C. Code Ann. § 29-4-10, et seq.)
- Attorney-Preference Statute (S.C. Code Ann. § 37-10-102)
- Remedies and Penalties (S.C. Code Ann. § 37-5-101, et seq.)

Peripheral Industry Statutes

- State Agency Rule Making and Adjudication of Contested Cases (S.C. Code Ann. § 1-23-10 et seq.)
- Consumer Protection Code—Loans (S.C. Code Ann. § 37-3-101 et seq.)
- Consumer Protection Code—Administration (S.C. Code Ann. § 37-6-101 et seq.)
- Financial Identity Theft Protection Act
  - S.C. Code Ann. § 37-20-110
  - S.C. Code Ann. § 39-1-90
- Consumer Credit Counseling
  - S.C. Code Ann. § 37-7-101 et seq.

Regulations

- Licensing of Mortgage Brokers (S.C. Code Ann. Regs. 28-400)
- Mortgage Lending Act Regulations (S.C. Code Ann. Regs. 15-64)

ALERT: Each agency is required to have its own course approval. Course must be approved for SC-BFI and SC-DCA separately.

NMLS Approving Authority
In accordance with the SAFE Act, NMLS is the approval authority for courses that are intended to satisfy the PE & CE requirement for an MLO to be licensed by a state agency. Courses intending to satisfy these requirements must also meet NMLS course approval standards as detailed in the *Functional Specification for All NMLS Approved Courses*.

Legislative Updates
Course providers are responsible for keeping abreast of changes made to the applicable statutes, regulations and rules.

Last Review: 06/22/2022
Last Revision: 04/09/2019

South Carolina State Board of Financial Institutions (SC-BFI)
South Carolina Department of Consumer Affairs (SC-DCA)
Continuing Education (CE) Notice

Purpose
The purpose of this notice is to inform NMLS approved course providers of the required topics to be covered in the 1-hour state specific Continuing Education (CE) requirement which must be met as a condition for maintaining a mortgage loan originator (MLO) license with either the South Carolina State Board of Financial Institutions or the South Carolina Department of Consumer Affairs.

CE requirements are as follows:

- 3 hours of Federal law;
- 2 hours of Ethics;
- 2 hours of non-traditional mortgage lending;
- 1 hour of South Carolina state-specific defined electives

Total CE: 8 Hours

SC-BFI and SC-DCA have established the following required learning objectives and topics list for the 1 hour of state-specific CE.

Required Learning Objectives:

- Know when to provide the attorney insurance preference form to consumers and ascertain the consumer's preference as required by S.C. Code Ann. § 37-10-102
- Identify where NMLS ID numbers are required on documentation as required by S.C. Code Ann. § 37-22-110, et seq. and S.C. Code Ann. § 40-58-10, et seq.
- Understand how to comply with required provisions of S.C. Code Ann. § 37-22- 140(K) when licensed mortgage lenders act as a mortgage broker.
- Explain how to disclose fees properly on mortgage broker fee agreement and the timeline in which the mortgage broker fee agreement must be provided (S.C. Code Ann. § 40-58-75).
- Understand the consequences associated with failure to properly sign application forms
- Articulate the requirements associated with the disclosure that identifies the agency designated to receive complaints or inquiries from the consumer (S.C. Code Ann. § 37-23-70).
- Describe how state law is different from federal law regarding prohibited activities and mortgage broker fee agreement (S.C. Code Ann. § 40-58-70, 75 & 78; S.C. Code Ann. § 37-22-190).
- Understand the mortgage log requirement (S.C. Code Ann. § 37-22-210; S.C. Code Ann. § 40-58-65).

Required Topics:

- Cover the changes in Mortgage Broker Act and Mortgage Lending Act effective September 16, 2017, including definitions, licensing a residence, and when a mortgage lender also needs a mortgage broker license.
- Examinations
- Escrow Accounts
- Disclosures and Advertising
- Enforcement
- Disciplinary Actions
- Prohibited Acts; Penalties

References:

Main Industry Statutes

- Mortgage Lending Act (S.C. Code Ann. § 37-22-110, et seq.)
- Licensing of Mortgage Brokers Act (S.C. Code Ann. § 40-58-10, et seq.)
- High-Cost and Consumer Home Loans Act (S.C. Code Ann. § 37-23-10, et seq.)
- Mortgages and Deeds of Trust Generally (S.C. Code Ann. § 29-3-10, et seq.)
- Reverse Mortgages (S.C. Code Ann. § 29-4-10, et seq.)
- Attorney-Preference Statute (S.C. Code Ann. § 37-10-102)
- Remedies and Penalties (S.C. Code Ann. § 37-5-101, et seq.)

Peripheral Industry Statutes

- State Agency Rule Making and Adjudication of Contested Cases (S.C. Code Ann. § 1-23-10 et seq.)
- Consumer Protection Code—Loans (S.C. Code Ann. § 37-3-101 et seq.)
- Consumer Protection Code—Administration (S.C. Code Ann. § 37-6-101 et seq.)
- Financial Identity Theft Protection Act
    - S.C. Code Ann. § 37-20-110
    - S.C. Code Ann. § 39-1-90
- Consumer Credit Counseling
    - S.C. Code Ann. § 37-7-101 et seq.

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ALERT: Each agency is required to have its own course approval. Course must be approved for SC-BFI and SC-DCA separately.

NMLS Approving Authority

In accordance with the SAFE Act, NMLS is the approval authority for courses that are intended to satisfy the PE & CE requirement for an MLO to be licensed by a state-agency. Courses intending to satisfy these requirements must also meet NMLS course approval standards as detailed in the *Functional Specification for All NMLS Approved Courses*.

Legislative Updates

Course providers are responsible for keeping abreast of changes made to the applicable statutes, regulations and rules.

From: Mortgage Log.
To: Mortgage Log.
Bcc:

[redacted]

6

[redacted]
Realtorlavishagreen@gmail.com;
[redacted]

Subject: South Carolina Mortgage Log Due by March 31, 2023

Date: Monday, January 23, 2023 4:28:00 PM

South Carolina law requires all licensed mortgage brokers and mortgage lenders/servicers to file a mortgage log each year directly with the South Carolina Department of Consumer Affairs. The mortgage log includes data required by S.C. Code Ann. § 40-58-65 (for mortgage broker licensees) and S.C. Code Ann. § 37-22-210 (for mortgage lender/servicer licensees) along with the data identified in 12 CFR Part 1003, et seq., the Home Mortgage Disclosure Act (HMDA). **The deadline to file a mortgage log with the South Carolina Department of Consumer Affairs is Thursday, March 31, 2023.** If no credit decision was made during 2022 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity."

If you were licensed at any time in 2022, up to and including December 31, 2022, you must submit a mortgage log or statement of no activity.

The 2022 Mortgage Log Data Form can be found here (please scroll down to the Section titled Mortgage Log) and the Instructions are found here. If you have any questions or concerns after reviewing these documents, please email mortgagelog@scconsumer.gov or call 803-734-4256.

*If you have already submitted your mortgage log, please disregard this email. We will begin reviewing mortgage log submissions shortly.

South Carolina Department of Consumer Affairs
803-734-4200 | 800-922-1594 (in SC) | 803-734-4229 (fax)
293 Greystone Blvd., Suite 400
PO Box 5757 Columbia, SC 29250
www.consumer.sc.gov

From: Mortgage Log.
To: Mortgage Log.
Bcc:

[redacted]

[redacted]
Realtorlavishagreen@gmail.com;
[redacted]

Subject: SECOND NOTICE South Carolina Mortgage Log Due by March 31, 2023
Date: Wednesday, February 15, 2023 10:25:00 AM

2ND NOTICE

South Carolina law requires all licensed mortgage brokers and mortgage lenders/servicers to file a mortgage log each year directly with the South Carolina Department of Consumer Affairs. The mortgage log includes data required by S.C.

Code Ann. § 40-58-65 (for mortgage broker licensees) and S.C. Code Ann. § 37-22-210 (for mortgage lender/servicer licensees) along with the data identified in 12 CFR Part 1003, et seq., the Home Mortgage Disclosure Act (HMDA). The deadline to file a mortgage log with the South Carolina Department of Consumer Affairs is Friday, March 31, 2023. If no credit decision was made during 2022 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity."

The 2022 Mortgage Log Data Form and Instructions are found on the Department's website here. If you have any questions or concerns after reviewing these documents, please email mortgagelog@scconsumer.gov or call 803-734-4256.

South Carolina Department of Consumer Affairs
803-734-4200 | 800-922-1594 (in SC) | 803-734-4229 (fax)
293 Greystone Blvd. Suite 400
PO Box 5757 Columbia, SC 29250
www.consumer.sc.gov

From: Mortgage Log.
To: Mortgage Log.
Bcc: [redacted]
Realtoravishagreen@gmail.com;
[redacted]

PENGAD 800-631-6989
PETITIONER'S EXHIBIT
30-0335 8
11/14/23

[redacted]

Subject: FINAL NOTICE South Carolina Mortgage Log Due by March 31, 2023
Date: Tuesday, March 14, 2023 11:45:00 AM
Attachments: image002.png
image003.png
image004.png

FINAL NOTICE

South Carolina law requires all licensed mortgage brokers and mortgage lenders/servicers to file a mortgage log each year directly with the South Carolina Department of Consumer Affairs. The mortgage log includes data required by S.C. Code Ann. § 40-58-65 (for mortgage broker licensees) and S.C. Code Ann. § 37-22-210 (for mortgage lender/servicer licensees) along with the data identified in 12 CFR Part 1003, et seq., the Home Mortgage Disclosure Act (HMDA). The deadline to file a mortgage log with the South Carolina Department of Consumer Affairs is **Friday, March 31, 2023.** If no credit decision was made during 2022 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity."

****Pursuant to South Carolina law, there is a fine of $100 per day for late or incomplete data submissions.****

The 2022 Mortgage Log Data Form and Instructions are found here. If you have any questions or concerns after reviewing these documents, please email mortgagelog@scconsumer.gov or call 803-734-4256.

South Carolina Department of Consumer Affairs
803-734-4200 | 800-922-1594 (in SC) | 803-734-4229 (fax)
293 Greystone Blvd. Suite 400
PO Box 5757 Columbia, SC 29250
www.consumer.sc.gov

TELL US HOW
WE'RE DOING

From: Mortgage Log,
To: Mortgage Log,
Bcc: [redacted] Realtorlavishagreen@gmail.com; [redacted]
Subject: South Carolina Mortgage Log
Date: Thursday, April 6, 2023 1:04:00 PM
Attachments: image002.png
image003.png
image004.png

****IMMEDIATE ATTENTION REQUIRED****

The South Carolina Department of Consumer Affairs has not received your completed mortgage log for 2022. As a reminder, the late filing fee for the South Carolina mortgage log is $100 per day.

If no credit decision was made during 2022 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity."

If you have questions or believe you have received this email in error, please email mortgagelog@scconsumer.gov or call 803-734-4256.

PENGAD 800-631-6989
PETITIONER'S EXHIBIT 9
30-0335
11/14/23 CH

SC Department of Consumer Affairs
293 Greystone Blvd., Suite 400
PO Box 5757 | Columbia, SC | 29250-5757
800.922.1594 | 803.734.4256 | 803.734.4287 (F)

If you have had positive experiences with the Department of Consumer Affairs, please share your story with the House Legislative Oversight Committee.
For more information go to: https://consumer.sc.gov/about-us/share-your-experience.

TELL US HOW WE'RE DOING

Hello Bryon,

How are you? Hope this email finds you well. I am reaching out to see if you could assist me with this outrageous request. This is my first penalty; can you guide me through this process or think of a better solution? I do not have this money and will not make this mistake again.

Thank you,
[Quoted text hidden]
--
Lavisha Green
Fab Seven LLC
Mortgage & Real Estate Broker
NMLS#2000258
NMLS#2166372
BIC#107839
Cell:843-312-7272
3255 Landmark Dr. Bldg. 200 Ste.204
North Charleston, SC 29418

---

2 attachments

South Carolina DEPARTMENT OF CONSUMER AFFAIRS **image002.png**
137K

image004.emz
3K

Gibbs, Bryon <BGibbs@scconsumer.gov> Wed, Jul 5, 2023 at 9:10 AM
To: Lavisha Green <realtorlavishagreen@gmail.com>

Hi Lavisha, I just tried to call you...did not leave a voicemail. You can call me back when you get a chance at 803 734 4242

[Quoted text hidden]

PENGAD 800-631-6989
RESPONDENT'S EXHIBIT 3
30-0335
11/14/23 CH

Gmail

Lavisha Green <realtorlavishagreen@gmail.com>

SECOND NOTICE South Carolina Mortgage Log Due by March 31, 2022

5 messages

Mortgage Log, <MortgageLog@scconsumer.gov> Thu, Feb 24, 2022 at 11:49 AM
To: "Mortgage Log," <MortgageLog@scconsumer.gov>

2ND NOTICE

South Carolina law requires all licensed mortgage brokers and mortgage lenders/servicers to file a mortgage log each year directly with the South Carolina Department of Consumer Affairs. The mortgage log includes data required by S.C. Code Ann. § 40-58-65 (for mortgage broker licensees) and S.C. Code Ann. § 37-22-210 (for mortgage lender/servicer licensees) along with the data identified in 12 CFR Part 1003, et seq., the Home Mortgage Disclosure Act (HMDA). The deadline to file a mortgage log with the South Carolina Department of Consumer Affairs is Thursday, March 31, 2022. If no credit decision was made during 2021 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity."

The 2021 Mortgage Log Data Form and Instructions are found on the Department's website here. If you have any questions or concerns after reviewing these documents, please email mortgagelog@scconsumer.gov or call 803-734-4256.

South Carolina Department of Consumer Affairs

803-734-4200 | 800-922-1594 (in SC) | 803-734-4229 (fax)

293 Greystone Blvd. Suite 400

PO Box 5757 Columbia, SC 29250

www.consumer.sc.gov

Lavisha Green <realtorlavishagreen@gmail.com> Thu, Feb 24, 2022 at 12:12 PM
To: "Boyer, Kerri" <KBoyer@scconsumer.gov>

Hello Kerri,

Hope this email finds you well. I completed my Mortgage Call Report in November. Is it another one due or did I miss something?

Best Regards,
[Quoted text hidden]
--
Lavisha Green

Cell:843-312-7272

Boyer, Kerri <KBoyer@scconsumer.gov> Thu, Feb 24, 2022 at 1:46 PM
To: Lavisha Green <realtorlavishagreen@gmail.com>

This is something completely different. The South Carolina Mortgage Log is done outside of NMLS. Please look at the directions and form on our website in the link in the email below. There is a $100/day late fee, so do look at it soon.

Kerri L. Boyer | *Licensing Attorney*

SC Department of Consumer Affairs

293 Greystone Blvd., Suite 400

PO Box 5757 |Columbia, SC |29250-5757

800.922.1594| 803.734.4256 |803.734.4287 (F)

TELL US HOW WE'RE DOING

[Quoted text hidden]

Lavisha Green <realtorlavishagreen@gmail.com> Thu, Feb 24, 2022 at 2:55 PM
To: "Boyer, Kerri" <KBoyer@scconsumer.gov>

Will do, thank you! Have a great day!
[Quoted text hidden]

Lavisha Green <realtorlavishagreen@gmail.com> Wed, Jul 5, 2023 at 9:48 AM
To: "Gibbs, Bryon" <BGibbs@scconsumer.gov>

Forwarded Conversation
Subject: SECOND NOTICE South Carolina Mortgage Log Due by March 31, 2022

From: **Mortgage Log,** <MortgageLog@scconsumer.gov>
Date: Thu, Feb 24, 2022 at 11:49 AM
To: Mortgage Log, <MortgageLog@scconsumer.gov>

2ND NOTICE

South Carolina law requires all licensed mortgage brokers and mortgage lenders/servicers to file a mortgage log each year directly with the South Carolina Department of Consumer Affairs. The mortgage log includes data required by S.C. Code Ann. § 40-58-65 (for mortgage broker licensees) and S.C. Code Ann. § 37-22-210 (for mortgage lender/servicer licensees) along with the data identified in 12 CFR Part 1003, et seq., the Home Mortgage Disclosure Act (HMDA). The deadline to file a mortgage log with the South Carolina Department of Consumer Affairs is Thursday, March 31, 2022. If no credit decision was made during 2021 by the licensee or the lender on any South Carolina residential mortgage loan applications, the company must submit a written attestation of "No Activity."

The 2021 Mortgage Log Data Form and Instructions are found on the Department's website here. If you have any questions or concerns after reviewing these documents, please email mortgagelog@scconsumer.gov or call 803-734-4256.

South Carolina Department of Consumer Affairs

803-734-4200 | 800-922-1594 (in SC) | 803-734-4229 (fax)

293 Greystone Blvd. Suite 400

PO Box 5757 Columbia, SC 29250

www.consumer.sc.gov

From: **Lavisha Green** <realtorlavishagreen@gmail.com>
Date: Thu, Feb 24, 2022 at 12:12 PM
To: Boyer, Kerri <KBoyer@scconsumer.gov>

Hello Kerri,

Hope this email finds you well. I completed my Mortgage Call Report in November. Is it another one due or did I miss something?

Best Regards,
--
Lavisha Green
Cell:843-312-7272

From: **Boyer, Kerri** <KBoyer@scconsumer.gov>
Date: Thu, Feb 24, 2022 at 1:46 PM
To: Lavisha Green <realtorlavishagreen@gmail.com>

This is something completely different. The South Carolina Mortgage Log is done outside of NMLS. Please look at the directions and form on our website in the link in the email below. There is a $100/day late fee, so do look at it soon.

Kerri L. Boyer | *Licensing Attorney*

SC Department of Consumer Affairs

293 Greystone Blvd., Suite 400

PO Box 5757 |Columbia, SC |29250-5757

800.922.1594| 803.734.4256 |803.734.4287 (F)

TELL US HOW WE'RE DOING

From: **Lavisha Green** <realtorlavishagreen@gmail.com>
Date: Thu, Feb 24, 2022 at 2:55 PM
To: Boyer, Kerri <KBoyer@scconsumer.gov>

[Quoted text hidden]

--
Lavisha Green
Fab Seven LLC
Mortgage & Real Estate Broker
NMLS#2000258
NMLS#2166372
BIC#107839
Cell:843-312-7272
3255 Landmark Dr. Bldg. 200 Ste.204
North Charleston, SC 29418

076

RECEIVED
Sep 25 2024
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Case No. 23-ALJ-30-0335-CC

South Carolina Department of Consumer Affairs, Respondent,

v.

Lavisha Green, Appellant.

NOTICE OF APPEAL

Lavisha Green appeals from the final order and decision of the Honorable S. Phillip Lenski, Administrative Law Judge, dated August 2, 2024. Appellant received the order on August 27, 2024 via email. The final order under appeal is attached.

Adam Sinclair Ruffin
SC Bar No. 101350
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-5629
adam@ruffinappeals.com

Attorney for Lavisha Green

<u>Other Counsel of Record</u>

South Carolina Department of Consumer Affairs

Zachary A. Passmore, Esq.
James C. Copeland, Esq.
293 Greystone Blvd.
Columbia, SC 29250
(803) 734-0349

Attorneys for Respondent

RECEIVED
Sep 25 2024
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Case No. 23-ALJ-30-0335-CC

South Carolina Department of Consumer Affairs, Respondent,

v.

Lavisha Green, Appellant.

PROOF OF SERVICE

Pursuant to Rules 262(a)(3) and 262(c)(3), SCACR, undersigned counsel hereby certifies that a true copy of the notice of appeal in the above-referenced case has been served upon Zachary Passmore, James Copeland, and the Honorable S. Phillip Lenski at the primary e-mail address listed in the Attorney Information System (AIS) on September 25, 2024. Undersigned further certifies that a copy of the notice of appeal was served on the Administrative Law Court by depositing a copy in the mail addressed to 1205 Pendleton Street, Suite 224, Columbia, SC 29201 on September 25, 2024.

Adam Sinclair Ruffin
SC Bar No. 101350
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-5629
adam@ruffinappeals.com

Attorney for Lavisha Green

From:	Adam Ruffin
To:	zpassmore@scconsumer.gov; jcopeland@scconsumer.gov; plenski@scalc.net
Subject:	Department of Consumer Affairs v. Lavisha Green Notice of Appeal, 23-ALJ-30-0335-CC
Date:	Wednesday, September 25, 2024 12:42:23 PM
Attachments:	Dept Consumer Affairs v. Green - NOA and POS.pdf Final Order - Lavisha Green 23a0335 (1).pdf Outlook-l0psstpy.png

Good afternoon,

Please find attached for service the notice of appeal and proof of service in the above-referenced case which will be filed in the Court of Appeals shortly.

Adam Ruffin
Ruffin Law Firm, LLC
https://ruffinappeals.com
adam@ruffinappeals.com
(803) 470-5629

RUFFIN LAW FIRM
APPELLATE LITIGATION

South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM
Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name: Green
First: Lavisha
Middle:
Docket No. (To Be Completed by ALC)

Mailing Address: 3255 Landmark Drive Ste. 204
City: North Charleston
State and Zip: SC 29418

Home Number:
Work Number: 843-312-7272
Cell Number:
*E-Mail Address: lgreen@fabsevenllcbrokerage.com

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? ☒ Yes ☐ No

Are you represented by an Attorney? x ☐ Yes ☐ No

Name of Attorney:

Attorney Mailing Address:

City, State and Zip:

Attorney Work Number and Cell Number:

Attorney E-Mail Address:

CASE INFORMATION

Name of Agency that Issued the Decision: (Example – Dept. of Revenue, Dept. of Insurance, DHEC)

In order to have your case processed, **you must attach the agency decision.** Is it attached?:
☒ Yes ☐ No

If no, please explain:

Date the decision was issued: 7/3/23

Date the decision was received: 8/3/23

Please provide a brief statement regarding why the hearing is being requested and the relief sought:
I am requesting a hearing to negotiate my $9000 Mortgage Call Log fine and pay a lesser amount.

Payment (applicable **filing fee pursuant to** ALC Rule 71) is being submitted today to the Administrative Law Court
via ☐ Check ☒ Money Order ☐ Cash
via ☒ U.S. Postal Service ☐ Hand-delivery

X *Your Signature or Signature of Attorney*

Date

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: Lavisha Green Date: 8/3/2023 City: North Charleston State: SC

I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing **on all other parties** to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):

SC Dept Consumer Affairs PO Box 5757 Columbia, SC 29250

Name and/or Agency Name Address City, State and Zip

Name and/or Agency Name Address City, State and Zip

Lavisha Green 8/3/23

X *Your Signature or Signature of Attorney* *Date*

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

Gmail Lavisha Green <realtorlavishagreen@gmail.com>

Requirement to Pay Statutory Fine for Failure to Submit Mortgage Log by March 31 Deadline

Passmore, Zachary <ZPassmore@scconsumer.gov> Mon, Jul 3, 2023 at 9:49 AM
To: "Realtorlavishagreen@gmail.com" <Realtorlavishagreen@gmail.com>

South Carolina
DEPARTMENT OF CONSUMER AFFAIRS
293 Greystone Boulevard Suite 400
P. O. BOX 5757
COLUMBIA, SC 29250-5757

PROTECTING CONSUMERS SINCE 1975

Carri Grube Lybarker
Administrator/
Consumer Advocate

June 30, 2023

Via Email and U.S. Mail

Lavisha Green

Fab Seven LLC

3255 Landmark Drive, Building 200 Suite 204

North Charleston, SC 29418

RE: REQUIREMENT TO PAY STATUTORY FINE FOR FAILURE TO SUBMIT MORTGAGE LOG BY MARCH 31 DEADLINE

Dear Lavisha Green:

South Carolina Code of Laws Section 40-58-65(A) requires persons holding a Mortgage Broker license in South Carolina to submit a mortgage log by March thirty-first of each year. South Carolina Code of Laws Section 40-58-65(A) requires persons holding a Mortgage Broker license in South Carolina to pay a fine of $100 per day the mortgage log is late.

The mortgage log is a separate requirement from the mortgage call report filed with the Nationwide Multistate Licensing System & Registry ("NMLS"), and the HMDA report that lenders file with the Consumer Financial Protection Bureau ("CFPB"). If no credit decision was made during 2022 by Fab Seven LLC on any South Carolina residential mortgage loan applications, Fab Seven LLC must submit a written attestation of "No Activity." This attestation is still subject to the daily fine as required by state law.

The Department has not received Fab Seven LLC's mortgage log as of the date of this letter. As a result, Fab Seven LLC has failed to comply with state law and an increasing late fee is accruing in the amount of $100 per day since March 31, 2023. A jurisdictional requirement has been placed on your license on NMLS regarding the fine.

Fab Seven LLC must immediately file their mortgage log or attestation of no activity. To resolve this non-compliance, the Department will accept a non-negotiable fine of $9,000.00 if paid within thirty (30) days of this letter. Otherwise, the Department will seek the full amount of the penalty, which would be $100.00 multiplied by the number of days until the Department receives your report or attestation of no activity.

If the fine is not paid within thirty (30) days of this letter, an order suspending or revoking Fab Seven LLC's license for failure to pay the fine may be issued pursuant to S.C. Code Ann. § 40-58-80(A)(2)(i). Thereafter, Fab Seven LLC will not be able to conduct any further business in South Carolina until the fine is paid.

Please make payment of the fine by check to the following address:

By Private Carrier:	**By Regular Mail:**
South Carolina Department of Consumer Affairs	South Carolina Department of Consumer Affairs
ATTN: Zachary A. Passmore	ATTN: Zachary A. Passmore
293 Greystone Boulevard, Suite 400	P.O. Box 5757
Columbia, South Carolina 29210	Columbia, South Carolina 29250

NOTICE OF RIGHT TO A HEARING

The violations set forth in this letter establish that Fab Seven LLC failed to comply with the provisions of South Carolina Code of Laws Section 40-58-65(A). The issuance of this violations letter represents a final agency decision by the Department. You have the right to contest the Department's decision by requesting a contested case hearing with the South Carolina Administrative Law Court ("ALC"). The hearing is requested through the ALC, using its forms and rules of procedure. Contact the ALC Clerk of Court at 803-734-0550 or obtain the forms and rules from their website at www.scalc.net. The hearing must be requested within thirty (30) days of receipt of this letter. Pursuant to Rule 71 of the South Carolina Administrative Law Court Rules of Procedure, a filing fee of $150 is required for requesting a contested case hearing payable to the Administrative Law Court.

At the same time that you submit your written request to the Administrative Law Court, you must serve a written copy of your request for a contested case hearing on each party, including, but not limited to, the Department. A copy of your request must be mailed to the Department at the following address:

By Private Carrier:	By Regular Mail:
South Carolina Department of Consumer Affairs	South Carolina Department of Consumer Affairs
ATTN: Zachary A. Passmore	ATTN: Zachary A. Passmore
293 Greystone Boulevard, Suite 400	P.O. Box 5757
Columbia, South Carolina 29210	Columbia, South Carolina 29250

Should you have any questions or need any further information, you may contact me at (803) 734-0349, or zpassmore@scconsumer.gov.

Regards,

S.C. DEPARTMENT OF CONSUMER AFFAIRS

Zachary A. Passmore

Enforcement Attorney

2 attachments

South Carolina DEPARTMENT OF CONSUMER AFFAIRS image002.png 137K

image004.emz 3K

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Lavisha Green,
Appellant/Petitioner,

vs.

SC Dept Of ConsumerAffairs
Respondent.

Docket No. __-ALJ-________

PROOF OF SERVICE

I hereby certify that I have served the Request for Contested Case Hearing Form (Description of the document) in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on August 3, 2023 (Month/Day/Year) to the below named parties at their address of record:

Zachary A Passmore
Name
P.O. Box 5757
Address
Columbia, SC 29250
City/State/Zip

Name
Address
City/State/Zip

Name
Address
City/State/Zip

Name
Address
City/State/Zip

Lavisha Green
(Print Your Name)

Lavisha Green
(Your Signature)

3255 Landmark Dr.
(Street)

N. Charleston, SC 29418
(City, State, Zip Code)

Passmore, Zachary

From: Erika S. Easler <eeasler@scalc.net>
Sent: Friday, August 2, 2024 11:04 AM
To: lgreen@fabsevenllcbrokerage.com; Passmore, Zachary; Copeland, James
Subject: [External] Final Order-SC Dept of Consumer Affairs v. Lavisha Green 23a0335
Attachments: Final Order - Lavisha Green 23a0335.pdf

Ms. Green/Gentlemen,

Good morning!

Please find attached the Final Order in the above referenced case.

Thank you.

V/R,

Erika S. Easler
Judicial Law Clerk to the Honorable S. Phillip Lenski
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Consumer Affairs, Petitioner, vs. Lavisha Green, Respondent.	Docket No. 23-ALJ-30-0335-CC **FINAL ORDER AND DECISION**

APPEARANCES: For the Petitioner: Zachary A. Passmore, Esq.
James C. Copeland, Esq.

For the Respondent: *Pro se*

STATEMENT OF THE CASE

This case is before the Administrative Law Court (ALC or court) pursuant to a request for a contested case hearing filed by Lavisha Green (Respondent) on August 8, 2023. The Respondent challenges the determination of the South Carolina Department of Consumer Affairs (Department) that she failed to timely submit her mortgage log and its decision to impose a $9,000.00 fine as a result. Generally, the Respondent does not dispute that she failed to timely file the mortgage log but maintains that it was an innocent mistake as a new broker and that the penalty imposed is excessive under the circumstances.

A hearing in this matter was held on November 14, 2023, at the ALC in Columbia, South Carolina. After careful consideration of the evidence presented, the applicable law, and the arguments of the parties, the court upholds the penalty imposed by the Department.

FINDINGS OF FACT

Having carefully considered all testimony, exhibits, and arguments presented at the hearing in this matter, and considering the credibility and accuracy of the evidence, the court makes the following findings of fact by a preponderance of the evidence:

1. The Respondent has a mortgage broker license in South Carolina, operating under the entity Fab Seven, LLC. That entity was first issued its license on July 1, 2021 and has been continuously licensed since.

2. On January 23, 2023, the Department notified the Respondent via email at "realtorlavishagreen@gmail.com" informing her that she is required by law to file a mortgage log by March 31, 2023.
3. On February 15, 2023, the Department again notified the Respondent at the aforementioned email address that a mortgage log or a written attestation of "no activity" needed to be submitted by the March 31st deadline.
4. On March 14, 2023, the Department once again notified the Respondent via email that she was required to file a mortgage log by March 31st. This notice further provided that, pursuant to South Carolina law, a fine of $100 per day would be imposed for late or incomplete submissions.
5. On April 6, 2023, the Department notified the Respondent that it had not received her mortgage log for 2022. The notice included a reminder regarding the $100 per day late fee imposed for failing to timely file mortgage logs.
6. By email to the Respondent dated June 30, 2023, the Department notified the Petitioner that it did not receive her mortgage log by the March 31, 2023, deadline. The notice provided that the Department had imposed a statutory penalty of $100 for each day the mortgage statement was late, resulting in a $9,000.00 accrued fine as of the date of the notification. This email was sent to the same "realtorlavishagreen@gmail.com" email address used by the Department for its earlier correspondence to the Respondent regarding her mortgage log. The email also indicates that this notice was sent via U.S. mail as well.
7. By email dated July 5, 2023, the Respondent reached out to the Department seeking assistance regarding the penalty imposed. As part of this correspondence, the Respondent forwarded emails from 2022 between her and the Department expressing confusion over the mortgage log filing process. The email address used by the Respondent in the 2022 emails is the same email address used by the Department in their notices regarding her mortgage log submission for 2023.[1]
8. Thereafter, on August 8, 2023, the Respondent filed a request for a contested case hearing with this court.
9. At the hearing, Karri Boyer Hawley testified on behalf of the Department. Ms. Hawley is a licensing attorney at the Department and assists license examiners with compliance issues

[1] It is unclear from the exhibit submitted which email the Respondent used to send the July 5, 2023, correspondence.

and application renewals. She testified to the requirements regarding the annual submission of a mortgage log and the training that mortgage broker licensees participate in regarding that requirement, among other things. Ms. Hawley testified that the Respondent was sent notices regarding the requirement in January, February, March, and April. She stated that the notices were sent to the email provided to the Department, and to the Multiple Listing Service (MLS), by Ms. Green and that she received no indication that the notices were undeliverable. Ms. Hawley noted that the Respondent timely submitted her 2021 mortgage log in 2022, which would have been the first year she was required to file a log following her licensure in 2021.

10. Ms. Green also testified at the hearing. She did not dispute that she failed to submit her mortgage log by the March 31st deadline, but noted that it was only her second year in business and that she was confused by the continuing education materials regarding the requirement. Ms. Green also testified that she changed her email since she filed the prior year, but acknowledged receiving the June 30, 2023, notice regarding the fine and conceded that she did not update her email in the MLS system. She argued that the fine was unreasonable, particularly given the fact that she was not notified of the fine until after ninety (90) days had passed and $9,000.00 in penalties had accrued. Given that, she asked for the fine to be reduced.

CONCLUSIONS OF LAW

Based upon the above findings of fact, the court concludes the following as a matter of law:

1. Section 1-23-600 of the South Carolina Code grants jurisdiction to this court to hear contested cases under the Administrative Procedures Act. S.C. Code Ann. § 1-23-600 (Supp. 2023). Specifically, Section 40-58-90 grants the ALC the authority to hold contested case hearings in matters arising from the Department. S.C. Code Ann. § 40-58-90(A) (2011).
2. Unless otherwise required by law, the standard of proof in an administrative proceeding, such as this, is by a preponderance of the evidence. S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2023); *Anonymous (M-156-90) v. State Bd. of Med. Exam'rs*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1998) (citation omitted). A "preponderance of the evidence" is evidence which convinces as to its truth. *Frazier v. Frazier*, 228 S.C. 149, 168, 89 S.E.2d 225, 235 (1955).

3. In this state, the Department is charged with regulating mortgage broker licensees, and every person acting as a mortgage broker in South Carolina must be licensed by the Department. *See* S.C. Code Ann. § 40-58-30(A) (2011).
4. Licensed mortgage brokers must submit a mortgage log containing certain information to the Department by March 31st of each year. *See* S.C. Code Ann. § 40-58-65(A) (Supp. 2023); *see also* S.C. Code Ann. Regs. 28-400(D)(1) (Supp. 2023) (noting the requirement for mortgage brokers to file a mortgage log with the Department).
5. Pursuant to statute, "[t]he licensee *shall* pay a fine of one hundred dollars a day for late or incomplete data submissions." S.C. Code Ann. § 40-58-65(A) (emphasis added). "Ordinarily, the use of the word 'shall' in a statute means that the action referred to is mandatory." *S.C. Dep't of Highways and Pub. Transp. v. Dickinson*, 288 S.C. 189, 191, 341 S.E.2d 134, 135 (1986) (citation omitted); *see also Collins v. Doe*, 352 S.C. 462, 470-71, 574 S.E.2d 739, 743 ("Under the rules of statutory interpretation, use of words such as 'shall' or 'must' indicates the legislature's intent to enact a mandatory requirement.") (citations omitted).

DISCUSSION

In this case, the Respondent does not dispute that she did not file her 2022 mortgage log by the March 31, 2023, deadline. Rather, she argues that she is a new licensee who was confused by or not fully aware of the filing requirements and made a mistake. The Respondent contends that the penalty is unreasonable and asks this court for leniency with respect to the amount imposed by the Department. Though the court is inclined to agree that the monetary penalty imposed in this case for a new licensee with no prior disciplinary infractions seems disproportionate to the Appellant's conduct in this case, as set forth below, the court regrettably finds that it lacks discretion to reduce the penalty.

Pursuant to Section 40-58-65(A) of the South Carolina Code, licensees "*shall* pay a fine of one hundred dollars a day for late or incomplete data submissions." S.C. Code Ann. § 40-58-65(A) (emphasis added). The statute does not provide for any lesser or alternative penalties, and the use of the word "shall" implies a mandatory requirement. *See S.C. Dep't of Highways and Pub. Transp.*, 288 S.C. at 191, 341 S.E.2d at 135 (citation omitted); *Collins*, 352 S.C. at 470-71, 574 S.E.2d at 743. Thus, this court is without authority to alter the mandatory statutory penalty of one hundred dollars ($100) a day for late submissions.

Here, the Respondent does not dispute that she failed to timely file her 2022 mortgage log and offers no explanation for this failure other than a lack of experience and some confusion regarding the filing requirements. While it is clear that the Respondent's omission in this case was due in large part to her inexperience, the court is without discretion to reduce or alter the penalty in any way given the statute's mandatory language. Consequently, the court is constrained to uphold the $9,000.00 penalty imposed by the Department on the Respondent for her failure to timely file her 2022 mortgage log.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the court finds that the Department's decision to impose a $9,000.00 fine for the Respondent's failure to timely file her mortgage log must be upheld.

IT IS THEREFORE ORDERED that the Respondent shall pay the Department the penalty imposed in the amount of $9,000.00, subject any payment plan, penalty modifications, or alternative arrangements the Department may offer.[2]

AND IT IS SO ORDERED.

S. Phillip Lenski
Administrative Law Judge

August 2, 2024
Columbia, South Carolina

[2] The court appreciates the candor of Ms. Green and is sympathetic to the financial difficulties resulting from the imposition of such a substantial fine. Following closing argument, the court asked counsel for the Department for its position on the penalty amount and whether leniency was allowed under the statute. The Department took the position that it was just enforcing the statute as written and had no authority to deviate from the one hundred dollar ($100) per day penalty imposed by the statute. While the court's ability to offer leniency in this case is foreclosed by the mandatory statutory language regarding the penalty, the court rejects the idea that the Department—as the licensing authority in this matter—could not stipulate to a reduced number of days as part of settlement negotiations with the Respondent, suspend some portion of the penalty, or offer a long-term payment option to her. Given the facts of this case, the Respondent's neophyte status and her otherwise clean record, the court encourages the Department to work with the Respondent so as not to create an unsurmountable financial barrier to her returning to practice as a mortgage broker.

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

Erika S. Easler
Judicial Law Clerk

August 2, 2024
Columbia, South Carolina

South Carolina
FILED
AUG 02 2024
Administrative Law Court

Passmore, Zachary

From:	Erika S. Easler <eeasler@scalc.net>
Sent:	Wednesday, August 28, 2024 4:18 PM
To:	L Green; Passmore, Zachary; Copeland, James
Subject:	[External] RE: Final Order-SC Dept of Consumer Affairs v. Lavisha Green 23a0335

Ms. Green,

Good afternoon!

I mailed a hard copy to address that was provided to the court:

3255 Landmark Drive Suite 204
North Charleston, SC 29418

Thank you.

Erika

From: L Green <lgreen@fabsevenllcbrokerage.com>
Sent: Wednesday, August 28, 2024 3:55 PM
To: Erika S. Easler <eeasler@scalc.net>; Passmore, Zachary <zpassmore@scconsumer.gov>; Copeland, James <JCopeland@scconsumer.gov>
Subject: Re: Final Order-SC Dept of Consumer Affairs v. Lavisha Green 23a0335

Hello,

I never received a copy in the mail, received this message yesterday. I am appealing the decision and hiring legal representation. Please send all communications directly through the mail to my home address:

154 Buchanan Cir

Goose Creek, SC 29445

Thank you,

From: Erika S. Easler <eeasler@scalc.net>
Sent: Friday, August 2, 2024 11:04 AM
To: L Green <lgreen@fabsevenllcbrokerage.com>; Passmore, Zachary <zpassmore@scconsumer.gov>; Copeland, James <JCopeland@scconsumer.gov>
Subject: Final Order-SC Dept of Consumer Affairs v. Lavisha Green 23a0335

Ms. Green/Gentlemen,

Good morning!

Please find attached the Final Order in the above referenced case.

Thank you.

V/R,

Erika S. Easler

Judicial Law Clerk to the Honorable S. Phillip Lenski

South Carolina Administrative Law Court

1205 Pendleton Street, Suite 224

Columbia, S.C. 29201

. . CONFIDENTIALITY NOTICE:This email (including any attachments) contains information from the South Carolina Administrative Law Court that may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, you are not authorized to read, copy, retain or distribute this message. If you have received this email in error, please notify the sender immediately by "reply to sender

only" email and destroy all electronic and hard copies of the communication, including attachments. Please contact HelpDeskIT@scalc.net if you are unsure the email is legitimate.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SEP 1 2024

Lavisha Green, Appellant/Petitioner, vs. SC Department o Consumer Afairs, Respondent.	Docket No. 23-ALJ-30-0335-CC **PROOF OF SERVICE**

I hereby certify that I have served the Motion of Continuance (Description of the document) in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on September 6, 2024 (Month/Day/Year) to the below named parties at their address of record:

Zachary A. Passmore & James C. Copeland
Name
293 Greystone Blvd #400
Address
Columbia SC 29210
City State Zip

Erika S. Easler
Name
1205 Pendleton St. Ste. 224
Address
Coulumbia SC 29201
City State Zip

Name
Address
City State Zip

Name
Address
City State Zip

Lavisha Green
(Print Your Name)

Lavisha Green
(Your Signature)

3236 Landmark Dr. Ste. 108
(Street)

North Charleston, SC 29418
(City, State, Zip Code)

Lavisha Green
3236 Landmark Dr. St. 108
North Charleston SC, 29418
843-312-7272
sevenmortgagelg@gmail.com

9/6/2024

State of SC Administrative Law Court
1205 Pendleton St. Ste. 224
Columbia, SC 29201

RE: Request for Continuance
Case Number: 23-ALJ-30-0335-CC
Appellant: Lavisha Green
Respondent: SC Dept of Consumer Affairs

Dear Clerk of Court,

Pursuant to Rule 240 of the South Carolina Appellate Court Rules (SCACR), I am respectfully requesting a continuance of 30 days in the above-referenced appeal. Due to my limited familiarity with the legal process, I am in the process of securing legal counsel to properly represent me in this matter. However, I require additional time to finalize the hiring of an attorney.

I respectfully ask that the court grant this continuance to allow for proper legal representation and to ensure that my rights are adequately protected during the appeal process. I am making every effort to retain counsel promptly and anticipate completing this process within the requested extension period.

Thank you for your consideration of this request.

Sincerely,
Lavisha Green
Lavisha Green

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Lower Court Case No. 23-ALJ-30-0335-CC

South Carolina Department of Consumer Affairs, Respondent,

v.

Lavisha Green, Appellant.

Appellate Case No. 2024-001652

AFFIDAVIT OF LAVISHA GREEN

Personally appeared before me, Lavisha Green, after first being duly sworn, do hereby swear, make oath, and affirm as follows:

1. I represented myself in the contested case hearing before the Administrative Law Judge in this matter and did not have a lawyer.
2. I received the final decision of the ALJ on August 27, 2024, via email only.
3. I have never received a paper copy of this final decision through the U.S. mail or otherwise. The final order has never been personally delivered to me.
4. On August 28, 2024, the day after I received the ALJ's final order via email, I emailed Judge Lenski's law clerk, Erika Easler, to inform her that I wished to appeal the decision of the ALJ.

   Jana Shealy called me and I

5. On 9/9/24@10:34am, ~~I~~ called the ~~Administrative Law Court to~~ inform ~~them~~ her that I wanted to appeal the decision of the ALJ and asked them what steps needed to be taken to do that. I

BW / 11/15/2024

was informed by Jana Shealy, the Clerk of Court for the Administrative Law Court, that if I wanted to appeal the decision of the ALJ I had to do so with the South Carolina Court of Appeals. The Clerk did not inform me that I had to file a motion to reconsider with the ALJ before I could file a notice of appeal with the Court of Appeals.

6. On September 6, 2024, I mailed a letter to the ALC asking for additional time to file an appeal so that I could hire an attorney.
7. I was never informed that I had to file a motion to reconsider with the ALJ prior to appealing the decision to the Court of Appeals. I was never informed that the ALC changed its rule to require motions for reconsideration prior to appealing the decision to the Court of Appeals.
8. Based on the information I received from Jana Shealy, On September 9, 2024, I sent a letter to the South Carolina Court of Appeals requesting an extension of time to file the notice of appeal while I sought legal counsel.
9. I retained Adam Ruffin on September 24, 2024 to represent me in my appeal to the Court of Appeals.

Lavisha Green 11/15/24
Lavisha Green Date

Sworn to before me this 15th day of November, 2024

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 07/24/2025

099

USAGE DETAILS

For information only - charges are shown in the One-Time Charges section.

(843) 312-7272

Fab Seven Llc | Voice

TALK

When			Who	Description	Type	Min	Cost
Aug 22	11:05 AM	IN	Blocked NBR	Incoming	F	1	-
	12:45 PM	IN	(877) 536-3631	Incoming	-	1	-
	4:11 PM	OUT	(803) 552-0087	to Aiken/SC	F	6	-
	4:56 PM	IN	(843) 442-5526	Incoming	F	1	-
	5:16 PM	IN	(877) 536-3631	Incoming	-	1	-
Aug 23	8:45 AM	IN	(843) 820-8008	Incoming	-	5	-
	1:53 PM	IN	(843) 442-5526	Incoming	F	5	-
	1:58 PM	IN	(843) 442-5526	Incoming	F	2	-
Aug 24	9:27 AM	IN	(854) 800-5798	Incoming	-	4	-
	3:31 PM	IN	(843) 637-0144	Incoming	W	1	-
Aug 26	8:30 AM	IN	(864) 807-7309	Incoming	-	1	-
	8:36 AM	IN	(864) 807-7309	Incoming	-	2	-
	9:52 AM	IN	(854) 800-5798	Incoming	-	1	-
	10:48 AM	OUT	(854) 800-5798	to Charleston/SC	-	1	-
	10:52 AM	OUT	(854) 800-5798	to Charleston/SC	-	2	-
	10:55 AM	OUT	(843) 225-5065	to Charleston/SC	-	2	-
	11:43 AM	IN	(313) 751-9808	Incoming	-	2	-
Aug 27	10:02 AM	OUT	(800) 214-6094	1-800 #	-	1	-
	11:40 AM	OUT	(805) 458-8574	to San Lus Ob/CA	-	2	-
	12:27 PM	OUT	(888) 407-0359	1-888 #	-	3	-
	12:29 PM	OUT	(888) 407-0359	1-888 #	-	1	-
	12:30 PM	OUT	(888) 407-0359	1-888 #	-	39	-
	1:32 PM	IN	(980) 294-1374	Incoming	-	1	-
	1:39 PM	OUT	(803) 734-0550	to Columbia/SC	-	1	-
	1:40 PM	OUT	(803) 734-0550	to Columbia/SC	-	3	-
	2:16 PM	IN	(704) 376-3030	Incoming	-	3	-
	2:28 PM	IN	(843) 937-8000	Incoming	-	2	-
	2:30 PM	IN	(844) 472-0967	Incoming	-	6	-
	2:40 PM	OUT	(843) 853-5203	to Charleston/SC	-	1	-
	2:54 PM	IN	(844) 472-0967	Incoming	-	47	-
	3:42 PM	OUT	(803) 252-3300	to Columbia/SC	-	3	-
	4:06 PM	OUT	(800) 232-6643	1-800 #	-	14	-
	4:34 PM	OUT	(843) 727-2650	to Charleston/SC	-	2	-
	5:22 PM	IN	(843) 490-3318	Incoming	F	1	-
Aug 28	9:26 AM	IN	(803) 252-4800	Incoming	-	1	-
	10:04 AM	IN	(843) 560-5627	Incoming	-	1	-
	10:06 AM	OUT	(803) 252-4800	to Columbia/SC	-	1	-
	1:03 PM	OUT	(803) 252-4800	to Columbia/SC	-	1	-
	1:03 PM	OUT	(803) 252-4800	to Columbia/SC	-	3	-
	3:08 PM	OUT	(803) 533-9248	to Orangeburg/SC	-	3	-
	3:28 PM	IN	(803) 730-3550	Incoming	-	20	-
	5:14 PM	OUT	(803) 552-0087	to Aiken/SC	F	2	-
	5:31 PM	IN	(803) 552-0087	Incoming	F	2	-
Aug 29	10:08 AM	OUT	(803) 252-4800	to Columbia/SC	-	9	-

...CONTINUED- (843) 312 -7272 , **TALK**

When			Who	Description	Type	Min	Cost
	10:17 AM	OUT	(803) 799-7100	to Columbia/SC	-	5	-
	10:22 AM	OUT	(843) 203-3847	to Charleston/SC	-	2	-
	10:25 AM	OUT	(843) 216-7728	to Mtpleasant/SC	-	4	-
	10:31 AM	OUT	(843) 884-8146	to Mtpleasant/SC	-	5	-
	10:59 AM	IN	(843) 701-8806	Incoming	-	1	-
	11:45 AM	OUT	(803) 850-0912	to Fairfax/SC	-	3	-
	11:50 AM	OUT	(843) 884-8146	to Mtpleasant/SC	-	2	-
	11:53 AM	IN	(843) 266-8112	Incoming	W	4	-
	2:44 PM	IN	(843) 701-8809	Incoming	-	1	-
	2:46 PM	IN	(214) 306-7295	Incoming	-	1	-
	4:57 PM	OUT	(803) 614-0269	to Orangeburg/SC	-	11	-
	5:26 PM	IN	(843) 216-7728	Incoming	-	2	-
	5:43 PM	IN	(803) 614-0269	Incoming	-	7	-
	5:55 PM	IN	(803) 614-0269	Incoming	-	1	-
	5:57 PM	IN	(803) 614-0269	Incoming	-	1	-
	7:33 PM	IN	(803) 614-0269	Incoming	-	12	-
	8:01 PM	IN	(803) 614-0269	Incoming	-	3	-
Aug 30	9:24 AM	OUT	(803) 387-7334	to Orangeburg/SC	W	6	-
	9:29 AM	OUT	(803) 928-9690	to Orangeburg/SC	-	1	-
	9:30 AM	OUT	(803) 387-7334	to Orangeburg/SC	-	3	-
	9:38 AM	IN	(843) 983-6573	Incoming	-	1	-
	9:50 AM	OUT	(803) 614-0269	to Orangeburg/SC	-	21	-
	10:16 AM	IN	(313) 751-9808	Incoming	-	8	-
	11:06 AM	IN	(803) 928-9690	Incoming	-	8	-
	3:37 PM	OUT	(803) 614-0269	to Orangeburg/SC	-	1	-
	3:40 PM	IN	(803) 614-0269	Incoming	-	56	-
	5:03 PM	OUT	(803) 614-0269	to Orangeburg/SC	-	1	-
	5:05 PM	OUT	(803) 347-4339	to Orangeburg/SC	-	2	-
	5:07 PM	OUT	(803) 614-0269	to Orangeburg/SC	-	4	-
	5:28 PM	IN	(803) 614-0269	Incoming	-	1	-
Aug 31	9:35 AM	OUT	(800) 984-9123	1-800 #	-	3	-
	9:38 AM	OUT	(800) 984-9123	1-800 #	-	29	-
Sep 02	9:36 AM	OUT	(888) 531-6664	Cust Care	H	7	-
	1:22 PM	IN	(843) 637-0144	Incoming	-	1	-
Sep 03	8:39 AM	IN	(803) 928-9690	Incoming	-	3	-
	8:50 AM	IN	(803) 928-9690	Incoming	-	6	-
	8:58 AM	IN	(803) 928-9690	Incoming	-	5	-
	9:13 AM	IN	(803) 928-9690	Incoming	-	2	-
	9:21 AM	OUT	(803) 928-9690	to Summerton/SC	-	8	-
	10:07 AM	IN	(803) 928-1853	Incoming	-	3	-
	10:23 AM	IN	(843) 983-6572	Incoming	-	1	-
	2:53 PM	IN	(877) 351-7469	Incoming	-	2	-
	3:00 PM	OUT	(843) 577-5083	to Florence/SC	W	2	-
	3:02 PM	OUT	(843) 577-4000	to Florence/SC	-	4	-
	3:10 PM	OUT	(803) 255-9525	to Columbia/SC	-	1	-
	3:13 PM	OUT	(843) 972-0004	to Myrtle Bch/SC	-	2	-
	3:14 PM	OUT	(800) 868-2284	1-800 #	-	6	-
	3:19 PM	OUT	(864) 990-5378	to Greenville/SC	-	4	-
	3:47 PM	OUT	(800) 727-8495	1-800 #	-	30	-
	4:49 PM	IN	(803) 552-0087	Incoming	F	1	-
	5:28 PM	OUT	(844) 937-7567	1-844 #	-	16	-
	5:51 PM	OUT	(888) 842-6328	1-888 #	-	35	-
	8:45 PM	IN	(843) 490-3318	Incoming	F	1	-

...CONTINUED- (843) 312 -7272 , **TALK**

When			Who	Description	Type	Min	Cost
Sep 04	9:16 AM	OUT	(864) 807-7309	to Greenville/SC	-	1	-
	10:06 AM	OUT	(803) 552-0087	to Aiken/SC	F	1	-
	10:07 AM	IN	(843) 972-0004	Incoming	A	4	-
	10:48 AM	OUT	(803) 552-0087	to Aiken/SC	F	1	-
	10:56 AM	IN	(803) 552-0087	Incoming	F	3	-
	12:19 PM	IN	(226) 741-3671	Incoming	-	1	-
	5:42 PM	IN	(843) 279-3908	Incoming	-	2	-
Sep 05	10:35 AM	IN	(843) 820-8008	Incoming	-	4	-
	10:41 AM	OUT	(803) 614-0269	to Orangeburg/SC	-	17	-
	11:20 AM	IN	(214) 306-7295	Incoming	-	1	-
	11:49 AM	OUT	(803) 400-8277	to Columbia/SC	-	2	-
	11:52 AM	OUT	(803) 799-7100	to Columbia/SC	-	4	-
	11:55 AM	OUT	(843) 628-6450	to Charleston/SC	-	11	-
	12:11 PM	OUT	(803) 799-7100	to Columbia/SC	-	1	-
	12:17 PM	OUT	(864) 990-5378	to Greenville/SC	-	2	-
	12:21 PM	OUT	(843) 225-5065	to Charleston/SC	-	1	-
Sep 09	10:34 AM	IN	(803) 734-0550	Incoming	-	2	-
	10:37 AM	OUT	(803) 734-1890	to Columbia/SC	-	2	-
	1:19 PM	OUT	(803) 799-7100	to Columbia/SC	-	10	-
	1:53 PM	IN	(214) 306-7295	Incoming	-	1	-
	1:53 PM	IN	(214) 306-7295	Incoming	-	1	-
	6:54 PM	OUT	(803) 552-0087	to Aiken/SC	F	4	-
Sep 10	8:20 AM	IN	(803) 928-9690	Incoming	-	1	-
	12:22 PM	IN	(214) 306-7295	Incoming	-	1	-
	12:22 PM	OUT	(214) 306-7295	to Dallas/TX	-	1	-
	1:01 PM	IN	(803) 470-5629	Incoming	-	36	-
	4:30 PM	IN	(854) 228-7488	Incoming	-	1	-
	6:27 PM	IN	(803) 928-9690	Incoming	-	2	-
Sep 11	9:45 AM	IN	(213) 340-2429	Incoming	-	1	-
	10:49 AM	IN	Blocked NBR	Incoming	F	1	-
	10:50 AM	IN	Blocked NBR	Incoming	F	1	-
	11:36 AM	IN	(803) 363-0272	Incoming	F	1	-
	1:05 PM	IN	(803) 614-3650	Incoming	-	2	-
	1:07 PM	IN	(313) 751-9808	Incoming	-	6	-
	1:10 PM	IN	(803) 614-3650	Incoming	A	9	-
	1:18 PM	IN	(803) 614-3650	Incoming	-	12	-
	2:00 PM	OUT	(803) 363-0272	to Columbia/SC	F	4	-
	2:04 PM	OUT	(803) 552-0087	to Aiken/SC	F	7	-
	2:12 PM	OUT	(803) 621-3026	to Barnwell/SC	-	2	-
	4:17 PM	IN	(843) 894-5039	Incoming	-	3	-
	5:47 PM	IN	(803) 552-0087	Incoming	F	1	-
	6:34 PM	OUT	(803) 347-4339	to Orangeburg/SC	-	18	-
	7:14 PM	OUT	(844) 937-7567	1-844 #	-	1	-
	7:15 PM	OUT	(844) 937-7567	1-844 #	-	7	-
Sep 12	10:52 AM	OUT	(803) 928-9690	to Orangeburg/SC	-	3	-
	11:11 AM	OUT	(803) 206-8118	to Columbia/SC	-	6	-
	11:43 AM	OUT	(877) 383-4802	1-877 #	-	25	-
	12:16 PM	OUT	(843) 991-3194	to Charleston/SC	-	1	-
	1:24 PM	IN	(803) 539-1334	Incoming	-	4	-
	1:41 PM	OUT	(843) 991-3194	to Charleston/SC	-	1	-
	1:42 PM	OUT	(843) 278-3054	to Charleston/SC	-	1	-
	1:42 PM	OUT	(843) 991-3194	to Charleston/SC	-	1	-
	1:47 PM	OUT	(803) 984-9855	to Rock Hill/SC	-	2	-

Lavisha Green
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sevenmortgagelg@gmail.com

September 9, 2024

Court of Appeals
1220 Senate St.
Columbia, SC 29201

Subject: Request for Extension of Time to Submit Appeal Due to Improper Service of Final Decision

Dear Court of Appeals,

I hope this letter finds you well. I am writing to formally request an extension of time to submit an appeal regarding the decision in Case Number: 23-ALJ-30-0335-CC.

South Carolina law under Section 1-23-380 of the South Carolina Code of Laws requires that a final decision be served to all parties in a proper and timely manner. However, I believe that I was not properly served with the final decision as required by law. I only recently became aware of the decision, and therefore, I have not had the opportunity to file an appeal within the normal timeframe.

Due to the improper service of the final decision, I am currently in the process of securing legal counsel to represent me in this matter. As such, I am respectfully requesting an extension of time to ensure that I can adequately prepare and submit my appeal with the assistance of my attorney.

I kindly ask that you confirm the extension as soon as possible and provide guidance on any additional documentation or steps required to formalize this request.

Thank you for your time and understanding. I look forward to your prompt response.

Sincerely,

Lavisha Green