

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS  
DOCKET NO. 04:053:MBB

IN RE: )  
)  
REVOCATION OF LOAN OFFICER )  
LICENSE OF D'ALLEN PRETLOW, )  
LOAN OFFICER LICENSE NO. I- )  
100177 )

**DECISION AND ORDER**

THIS MATTER came on for hearing before the Commissioner of Banks (hereinafter the "Commissioner"), on March 16, 2004, pursuant to N.C. Gen. Stat. § 150B-38(b) and 4 NCAC 3B .0200, et seq., upon Notice of Intent to Revoke the loan officer license of D'Allen Pretlow which was mailed to Respondent on February 11, 2004 and served on February 14, 2004.

Appearing at the hearing for the Office of the Commissioner of Banks ("OCOB") was Anne J. Brown, Assistant Attorney General, Raleigh, North Carolina. D'Allen Pretlow ("Pretlow" or "Respondent") represented himself at the hearing. The hearing was conducted by Daniel E. Garner, Executive Legal Specialist, who was designated by the Commissioner as hearing officer to gather evidence and recommend a decision. Appearing as a witness for OCOB was George C. King ("King"), Director of the Mortgage Division at OCOB. Pretlow testified on his own behalf.

Based upon the exhibits admitted into evidence, the testimony of the witness, and arguments of the parties and counsel, the Commissioner makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. On or about June 6, 2002, Respondent signed under oath and afterwards filed with the Office of the Commissioner of Banks ("OCOB") an Application (the "Application") for licensure as a loan officer pursuant to N.C. Gen. Stat. § 53-243.05 and the grandfather provisions of Section 5 of Senate Bill 904, Session Law 2001-393. On or about May 16, 2003, Respondent also signed under oath and submitted a renewal application with no changes to the original application.
2. Based on the information contained in the Application, OCOB staff issued Respondent loan officer license number I-100177, on or about September 11, 2002. Upon further review, OCOB staff determined that the license should be revoked; consequently, George

C. King signed and mailed to the Respondent a Notice of Intent to Revoke ("Notice") dated February 11, 2004.

3. The Notice stated that Respondent's license should be revoked for the following reasons:

A. Respondent failed to disclose felony and misdemeanor convictions and outstanding judgments in response to Question Nos. 3(a), (b), (c) and (i) on the loan officer application and indicated, by signing the application under oath, that the information provided therein was true and complete when same contained misleading or false information, in violation of N.C. Gen. Stat. § 53-243.12(a)(2)a.

B. Respondent has been convicted of a felony in violation of N.C. Gen. Stat. § 53-243.12(a)(2)c: Cumberland County File No. 93 CRS 5699, larceny, on October 18, 1993.

C. Respondent has been convicted of a misdemeanor within the last ten (10) years in violation of N.C. Gen. Stat. § 53-243.12(a)(2)c:

1) Cumberland County File No. 96 CR 11998, simple worthless check, on June 14, 1996.

2) Cumberland County File No. 95 CR 49813, simple worthless check, on June 25, 1996.

3) Cumberland County File No. 93 CR 44605, simple worthless check, on November 17, 1993.

D. Respondent does not meet the financial responsibility requirements of N.C. Gen. Stat. § 53-243.12(a)(2)g.

E. Respondent has outstanding judgments in violation of N.C. Gen. Stat. § 53-243.12(a)(2)g as follows:

1) Judgment in favor of State Employees' Credit Union in the approximate amount of \$2,050, filed on or about November 1, 1998.

2) Judgment in favor of Anglo American, Inc. in the approximate amount of \$350, filed on or about October 1, 2002.

4. At the hearing, Anne Brown, counsel for OCOB, presented evidence in support of the Notice of Intent to Revoke which included:

Exhibit 1: Copy of application for loan officer license signed by D'Allen Pretlow, dated June 6, 2002

Exhibit 2: Copy of license renewal form signed by D'Allen Pretlow, dated May 16, 2003.

Exhibit 3: Copy of the Notice of Intent to Revoke, signed by George C. King, dated February 11, 2004

Exhibit 4: Copy of criminal report for D'Allen Pretlow

Exhibit 5: Copy of credit report for D'Allen Pretlow

5. Respondent entered into evidence a letter from Josephine B. Strickland, vice president/city officer for State Employees' Credit Union, stating that the outstanding judgment of \$2,050 identified in the Notice had been satisfied as of March 2002, prior to the date of the Application.
6. Regarding the outstanding judgment in favor of Anglo American, Inc., respondent stated that he was not aware that it existed at the time of the Application. The Respondent stated that he had made a payment against the judgment but did not realize it had not been fully satisfied.
7. Respondent testified that he had marital problems from 1999 until his divorce in 2003. After his divorce, he had full custody of his two young children. He testified that he had filed for bankruptcy in 2001 to try to get their debts under control. On December 12, 2003, the bankruptcy was dismissed. Since then, he has contacted each creditor to arrange for payment. The Respondent testified that he will resolve his credit problems. He stated that he expects to have all debts paid off by the third quarter of this year.
8. The credit report on which OCOB staff relied is in fact a report of the Appellant. Appellant had a score of 494 whereas the minimum acceptable credit score is ordinarily 550.
9. Respondent testified that he did not intend to mislead OCOB by answering "No" to questions 3(a), (b) and (c) on the loan officer application. Respondent stated that he did not disclose his felony conviction because he was accustomed to applications that asked for criminal background information only as far back as seven years. He stated that he mistakenly believed the loan officer application was similar to other applications and since his conviction occurred 10 years prior, he checked "No". He also said that he did not try to conceal the felony conviction, because he knew that a background check pulled by OCOB would immediately show the felony.
10. Respondent testified that the felony conviction occurred while he was a college student. The Respondent testified that he took some t-shirts, sweatshirts and similar items belonging to RPS, a company with which he was employed at the time. Respondent was sentenced to two years probation. Because he was a pilot, the judge asked him to fly disadvantaged children as part of his probation. Respondent testified that he has satisfied the probation requirements.

11. Respondent further testified that he was not aware of any misdemeanor convictions on his criminal report. The Respondent testified that he had written checks for medical bills for which he did not have the sufficient funds to cover at the time. He testified that he paid the returned checks in full. He never expected to see the simple worthless checks convictions appear on his criminal report since he had paid the worthless checks in full.
12. Respondent testified that his supervisor is Gerald Gabriel, at Residential Broker Group, Inc. where Respondent has worked since June, 2000. Respondent also testified that he was hired to help the company grow and that he feels that he has been an asset to the company.

## II. CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the parties and the subject matter of the hearing. Defects in notice of the proceedings are deemed waived by parties who appear and proceed without objection.
2. Inasmuch as Respondent has previously been issued a license by the Office of the Commissioner of Banks, the burden of proof is upon the state to show that Respondent's license should be revoked. Based on the evidence entered into the record, a *prima facie* case for revocation was made.
3. The Mortgage Lending Act (“MLA”) requires truthfulness and accuracy in filing documents with the Office of the Commissioner of Banks. The documents filed by Respondent with the Office of the Commissioner of Banks for licensure as a loan officer were inaccurate and untruthful. However, there is not evidence of an intent to deceive or mislead on the part of Respondent.
4. Those who participate in the mortgage industry are obligated to take the time and care to ensure that applications and loan-related documents are truthful and accurate in every respect. This obligation applies to documents relating to a loan as well as for documents relating to a loan officer’s licensure.
5. The Mortgage Lending Act contemplates that the Commissioner and his staff will consider a licensee's financial responsibility as it may reflect upon the licensee's “character and general fitness” under N.C. Gen. Stat. § 53-243.05. Therefore, in that review and consideration, outstanding judgments or a deficient credit score may weigh as aggravating factors against licensure. The Commissioner is required to make an affirmative finding under the statute that a licensee is entitled to licensure.
6. While a credit score standing alone is sufficient ground for a denial of licensure, OCOB will not ordinarily deny a loan officer license solely on that ground. However, the presence of that fact with other aggravating circumstances may prevent the Commissioner from making the affirmative finding that the statute requires – that is, that the applicant is fully qualified to receive a license. In this case, it appears that the

Respondent's credit score will likely improve as he continues to work on outstanding obligations.

7.

### **III. ORDER**

1. The preliminary decision of OCOB staff to revoke the loan officer license of D'Allen Pretlow is, for good cause shown, vacated and the Respondent's licensure as a loan officer is granted conditionally as set forth herein.
2. The Respondent's license will be fully reinstated upon the following terms and conditions:
  - A. Respondent shall have no meritorious complaints filed against him with OCOB for five years from the date of this Order and shall so certify annually under oath at renewal for the next five years.
  - B. Respondent shall have no other criminal violations in this or any other jurisdiction (other than minor traffic violations) for five years from the date of this order. Respondent shall promptly report, in full detail, any violations or alleged criminal violation to OCOB. Respondent shall certify under oath at the time of annual renewal of license that he has no criminal violations or alleged violations.
  - C. Respondent shall make consistent, regular efforts to remedy the defects in his credit information as demonstration of his financial responsibility. Respondent shall report under oath on his progress in this regard at the time of annual renewal for the next five years.
  - D. Respondent shall comply promptly and fully with any OCOB request for assistance in resolving a complaint, any request for information, or any request for assistance in connection with any examination or investigation.
  - E. Pursuant to this Final Order and Decision, Respondent shall act in the capacity of a loan officer only and may not for five years from the date of this order be designated as or act in the capacity of a branch manager without the Commissioner's prior written approval.
  - F. Because Respondent is a loan officer whose work must be supervised by a designated branch manager or managing principal in a licensed firm under the statute, and because Respondent is being granted a license in part because he will be under such supervision, Respondent is hereby ordered to keep a copy of this Decision and Order during the next five years and to provide a copy of this Order to any licensee for whom he intends to work and by whom he intends to be employed as a loan officer.
3. The Respondent must take the following actions within the next 20 days in order to retain his loan officer license under the conditions set forth above:

- A. Respondent must present proof of having taken and completed the continuing education course for the requisite hours for this year.
  - B. Respondent must present a letter from his current employer in which the current employer assesses his qualifications and performance as a loan officer and in which the current employer confirms that he is responsible for Respondent's performance as his current employer and that Respondent has had no complaints against him from consumers.
  - C. Respondent shall file without fee a revised, correct application with full disclosure and explanation of all previously undisclosed matters.
- 4. Failure to submit the required documentation in number 3 (A), (B), and (C) above within 20 days of the date of this Order may result in the revocation of Respondent's licensure as a loan officer.
  - 5. The Commissioner reserves the right to re-open this matter for reconsideration of the case and possible summary revocation of licensure if any one of the foregoing conditions is not satisfied.
  - 6. Any material violation of any of the terms and conditions stated herein shall be grounds for immediate action by the Commissioner to re-open this matter and to suspend or revoke the license granted by this order.

This the 22nd day of March, 2004.



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Joseph A. Smith, Jr.  
Commissioner of Banks


## CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that he has this day served a copy of the foregoing Final Order and Decision by personal delivery or by faxing a copy to the persons and fax numbers shown below or by placing a copy of the same in the mail, at Raleigh, first class mail, postage prepaid and addressed to the persons below:

D'Allen Pretlow  
3814 Dickens Avenue  
Hope Mills, NC 28348

Anne J. Brown  
North Carolina Department of Justice  
Office of the Attorney General  
9001 Mail Service Center  
Raleigh, North Carolina 27699-9001  
Phone: (919) 716-6800  
Fax: (919) 716-6755

This the 23rd day of March, 2004.

  
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