

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

OFFICE OF FINANCIAL REGULATION, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 09-4298PL  
 )  
 ARTHUR NATHAN RAZOR, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on February 23, 2010, by video teleconference, with the parties appearing in Fort Lauderdale, Florida, before Patricia M. Hart, a duly-designated Administrative Law Judge of the Division of Administrative Hearings, who presided in Tallahassee, Florida.

APPEARANCES

For Petitioner: Robert H. Schott, Esquire  
Office of Financial Regulation  
Post OFR Box 8050  
Tallahassee, Florida 32314-8050

For Respondent: Arthur N. Razor, pro se  
5751 Southwest 24th Avenue  
Dania Beach, Florida 33312

STATEMENT OF THE ISSUE

Whether the Respondent committed the violations alleged in the Amended Administrative Complaint and Notice of Rights dated June 16, 2009, and, if so, the penalty that should be imposed.

PRELIMINARY STATEMENT

In an Amended Administrative Complaint and Notice of Rights dated June 16, 2009, the Office of Financial Regulation ("OFR") asserted that it had grounds to revoke the mortgage broker's license of Arthur Nathan Razor pursuant to Section 494.004(1) and (2)(i) and (p), Florida Statutes (2007).<sup>1</sup> The OFR based its preliminary decision to revoke Mr. Razor's mortgage broker's license on allegations that Mr. Razor's license to practice law in Florida had been suspended by the Florida Supreme Court on September 11, 2007, and that Mr. Razor had not reported the suspension to the Department. Mr. Razor timely requested an administrative hearing, and the OFR transmitted the matter to the Division of Administrative Hearings for assignment of an administrative law judge. Pursuant to notice, the hearing was held on February 23, 2010. At the hearing, the OFR presented the testimony of David Tucker, and Petitioner's Exhibits A, B, and D through I were offered and received into evidence.

As a preliminary matter at the hearing, Mr. Razor requested that the administrative proceedings be stayed pending resolution of a complaint he had filed in the United States District Court for the Southern District of Florida seeking, among other things, an injunction to prohibit the OFR from going forward with these proceedings. Mr. Razor represented that he alleged in the complaint that the disciplinary proceedings conducted by

the Florida Bar and by the Florida Supreme Court leading to the suspension of his license to practice law constituted a violation of his right to due process. He requested in the complaint that the federal court enter an injunction prohibiting the OFR from seeking to revoke his mortgage broker's license because of the suspension of his license to practice law on the grounds that revocation on this ground would, likewise, violate his constitutional right to due process.

The complaint had not been served on the OFR as of the date of the final hearing because Mr. Razor had requested that he be allowed to proceed in federal court in forma pauperis but had not yet received permission to do so. Although the OFR had not been served with the complaint, it had a copy of the complaint at the final hearing, which it provided to the undersigned for review. After considering the allegations in Mr. Razor's complaint and the allegations in the OFR's Amended Administrative Complaint and noting that the petition had not been served on the OFR, the undersigned denied Mr. Razor's motion to stay these proceedings.

The one-volume transcript of the proceedings was filed with the Division of Administrative Hearings on March 17, 2010. The OFR timely filed its proposed findings of fact and conclusions of law on April 6, 2010. On April 22, 2010, Mr. Razor filed Respondent's Request for Clarification and Other Relief, in

which Mr. Razor represented that he had been unable to obtain a copy of the transcript and requested additional time in which to obtain the transcript and submit his proposed findings of fact and conclusions of law. A telephone conference was held on April 28, 2010, to discuss Mr. Razor's request. Mr. Razor was advised of the steps necessary to obtain a copy of the transcript from the Clerk of the Division of Administrative Hearings, and an Order was entered on April 28, 2010, granting Mr. Razor an extension of time until May 12, 2010, for filing his proposed findings of fact and conclusions of law. Mr. Razor timely filed his proposed findings of fact and conclusions of law, and the proposals of both parties have been considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

Based on the oral and documentary evidence presented at the final hearing and on the entire record of this proceeding, the following findings of fact are made:

1. The OFR is the state agency responsible for regulating mortgage brokerage and mortgage lending in the State of Florida and for licensing and regulating mortgage brokers.

§§ 494.0011(1); 494.0033(2), Fla. Stat.

2. At the time of the final hearing, Mr. Razor held an inactive mortgage broker's license. The license was inactive because Mr. Razor did not apply for a renewal of his license

when it expired on August 31, 2009. His license could be reactivated should he submit an application for renewal.

3. Mr. Razor was a member of the Florida Bar and a practicing attorney in Florida until, in an opinion issued September 11, 2007, the Florida Supreme Court ordered Mr. Razor suspended from the practice of law for a period of 18 months. See Florida Bar v. Razor, 973 So. 2d 1125 (Fla. 2007).

4. In its opinion, the court approved the findings of fact contained in the Report of the Referee; approved the Referee's findings that Mr. Razor had violated Rules Regulating the Florida Bar 3-4.2, 3-4.3, 4-5.3(b), and 4-8.4(a); and approved the Referee's recommendation that Mr. Razor's license to practice law be suspended for a period of 18 months.

5. Pertinent to this proceeding, Rules Regulating the Florida Bar 3.4-3 provides:

The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or

not the act is a felony or misdemeanor, may constitute a cause for discipline.

6. The Referee based his recommendation that Mr. Razor's license to practice law be suspended for 18 months on "Respondent's [Mr. Razor's] conduct in allowing his collaborator (a suspended attorney) to practice law in an attempt to extort money; his ratification of the misconduct by failing to take immediate remedial action; his attempts to cover for the suspended attorney by defending the letter during the Bar investigation; and his inconsistent defense (lack of knowledge) at the live and final hearings." These acts constitute dishonest dealing.

7. Mr. Razor's license to practice law was suspended 30 days after September 11, 2007, or on October 11, 2007. Mr. Razor did not report the suspension to the OFR because he did not believe it to be a reportable offense.

#### CONCLUSIONS OF LAW

8. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2009).

9. In its Amended Administrative Complaint and Notice of Rights, the OFR seeks to revoke Mr. Razor's license to act as a mortgage broker in Florida. Accordingly, the OFR must prove the

allegations in the Amended Administrative Complaint by clear and convincing evidence. Department of Banking & Finance, Division of Securities & Investor Protection v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

10. Section 494.0041, Florida Statutes, provides in pertinent part:

(1) Whenever the OFR finds a person in violation of an act specified in subsection (2), it may enter an order imposing one or more of the following penalties against the person:

(a) Revocation of a license or registration.

\* \* \*

(2) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (1) may be taken:

\* \* \*

(i) Having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this state or another state, territory, or country for fraud, dishonest dealing, or any other act of moral turpitude.

\* \* \*

(p) Failure to comply with, or violation of, any other provision of ss. 494.001-0077.

11. Based on the findings of fact herein, the OFR has proven by clear and convincing evidence that Mr. Razor's license to practice law in Florida was suspended for acts constituting dishonest dealing, and it has, therefore, proven that Mr. Razor violated Section 494.0041(2)(i), Florida Statutes.

12. Section 494.004(1), Florida Statutes, provides:

Each licensee under ss. 494.003-494.0043 shall report, in writing, any conviction of, or plea of nolo contendere to, regardless of adjudication, any crime or administrative violation that involves fraud, dishonest dealing, or any other act of moral turpitude, in any jurisdiction, by the licensee or any natural person named in s. 494.0031(2)(d), not later than 30 days after the date of conviction, entry of a plea of nolo contendere, or final administrative action.

13. Based on the findings of fact herein, Mr. Razor was found guilty by the Florida Supreme Court of a violation of the Rule Regulating the Florida Bar 3-4.3, involving "an act that is unlawful or contrary to honesty and justice." This equates to a conviction of an administrative violation involving dishonest dealing, and Mr. Razor was required to report the suspension to the OFR within 30 days of the date of conviction. Mr. Razor failed to report to the OFR his conviction of this administrative violation and the suspension of his license to practice of law in Florida. The Department has, therefore, proven by clear and convincing evidence that Mr. Razor violated



Section 494.004(1), Florida Statutes, which constitutes a violation of Section 494.0041(2)(p), Florida Statutes.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Office of Financial Regulation enter a final order finding that Arthur Nathan Razor violated Section 494.0041(2)(i) and (p), Florida Statutes, and revoking his Florida mortgage broker's license.

DONE AND ENTERED this 9th day of June, 2010, in Tallahassee, Leon County, Florida.



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PATRICIA M. HART  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 9th day of June, 2010.

ENDNOTE

<sup>1/</sup> All references herein to the Florida Statutes are to the 2007 edition except as otherwise noted.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.