

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE OBJECTION)
OF TIMOTHY MARINO TO THE)
BANKING ASSESSMENT) DECISION AND ORDER
FOR FY 2018 PURSUANT TO N.J.S.A.)
17:1C-33 TO -48)

This matter comes before the Commissioner of Banking and Insurance (“Commissioner”) pursuant to N.J.S.A. 17:1-15(e) and 17:1C-33 to -48, and all powers expressed or implied therein.

Background

N.J.S.A. 17:1C-33 to -48, provides that the Division of Banking (“Division”) has a statutory obligation to protect the interests of New Jersey’s consumers and to regulate and oversee the operations of the financial industry it charters, licenses and registers. In order to support the Division in its supervisory activities, the New Jersey Legislature provided a funding mechanism whereby the Division assesses the depository institutions and other financial entities it oversees. Based on this assessment, the financial burden of the Division is distributed proportionately among depository institutions and other financial entities it charters, licenses and registers.

The Department of Banking and Insurance (“Department”) mailed assessments for fiscal year 2018 (“FY 2018”) dated November 5, 2018 to all entities subject to the assessment. The FY 2018 assessments were based upon the entities’ calendar year 2017 Annual Report Information. The assessment notice provided that the entity or person assessed had 15 days after the mailing date to file objections to the assessment with the Commissioner in writing. The assessments that were sent out indicated the amount due from the entity or person assessed, and that payment was

due by December 5, 2018. Pursuant to N.J.S.A. 17:1C-36, the filing of an objection does not relieve the entity from paying the assessment when due.

Objection to the Assessment

By letter received by the Department on November 14, 2018, Timothy Marino (“Marino”) objected to the \$850 base amount he was assessed because he stated that he was no longer licensed as a mortgage broker in New Jersey and did not transact any business involving his New Jersey license during 2017, the period for which he was licensed. Marino has not, to date, paid the assessment. Marino e-mailed the Department on March 7, 2019 to reiterate that he applied for a license in 2016 and his application was not approved for six months. He further stated that by the time his application was approved, he had decided that he was no longer interested in pursuing mortgages in New Jersey and that he never engaged in any business using his New Jersey license. On March 21, 2019, the Department acknowledged receipt of Marino’s objection, gave notice of a hearing on the objection pursuant to N.J.S.A. 17:1C-36, and advised that further documents or argument could be submitted no later than 30 days from the date of said letter. Marino submitted no further information or documentation.¹

Discussion

Upon review of Marino’s position and arguments in support thereof, as well as the plain language of, and legislative intent underlying, the applicable statutory provisions, I find that the assessment properly applies to Marino.

Given the plain language of N.J.S.A. 17:1C-33, the Legislature intended that the Division’s incurred expenses related to its financial regulation be assessed among the depository institutions and financial entities that it licenses and registers. The Legislature did not exempt licensees from

¹ By email dated April 30, 2019, Marino asked the Department to advise “what other steps I need to complete”. It is unclear if this was in response to the Department’s March 21, 2019 letter.

the assessment that did not transact business related to their licenses. Here, Marino was licensed and registered by the Division for the relevant period for which the assessment was based, even though he never pursued business using his New Jersey license. Further, pursuant to N.J.S.A. 17:1C-46 and N.J.A.C. 3:5-4.3, the Commissioner has the authority to determine base assessments for licensees. As set forth in the assessment notice sent to Marino, he was assessed this base assessment, and was not assessed for any business transacted during the relevant period. Accordingly, the Department recognized that Marino did not transact any business involving his license when determining his assessment for FY 2018.

For the above reasons, I conclude that the assessment for FY 2018 properly applies to Marino. The Department properly assessed him the base rate that factored in that Marino had not completed any transactions involving his New Jersey mortgage license.

Order

THEREFORE IT IS on this 16th day of Sept, 2019 ORDERED that Marino's objections to payment of his assessment for FY 2018 pursuant to N.J.S.A. 17:1C-33 to -48 are denied, and that Marino shall pay the amount due in the assessment notice within 15 days of the date of this Order.



Marlene Caride
Commissioner

Jd Banking Assessment Obj. Marino/Orders