

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD068-BNK

3 **DIER ENTERPRISES, INC. DBA SOURCE4**
4 **HOME LOANS (S4HL) AND ERIC S.**
5 **MARGOLIAS, PRESIDENT**
6 5007 E. Wagoner Road
7 Scottsdale, AZ 85254

**SUPERINTENDENT'S FINAL
DECISION AND ORDER OF
REVOCATION**

Respondent.

8 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
9 record in this matter, including the Administrative Law Judge Decision attached and incorporated
10 herein by this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of
11 Law and Recommended Decision as follows:

12 ORDER

13 IT IS ORDERED that Respondent's Mortgage Broker License Number MB 0906277 is
14 revoked effective as of the date of this Order.

15 NOTICE

16 The parties are advised that this Order becomes effective immediately and the provisions of
17 this Order shall remain effective and enforceable except to the extent that, and until such time as,
18 any provision of this Order shall have been modified, terminated, suspended, or set aside by the
19 Superintendent or a court of competent jurisdiction.

20 DATED this 19th day of August, 2009.

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22 Felecia Rotellini
23 Superintendent of Financial Institutions

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1 ORIGINAL filed this 19th day of August, 2009 in the office of:

2 Felecia Rotellini, Superintendent of Financial Institutions
3 Arizona Department of Financial Institutions
4 ATTN: June Beckwith
2910 North 44th Street, Suite 310
Phoenix, Arizona 85018

5 COPY of the foregoing mailed/hand delivered
6 This same date to:

7 Lewis D. Kowal, Administrative Law Judge
8 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

9 Liane Kido, Assistant Attorney General
10 Office of the Attorney General
11 1275 West Washington
Phoenix, AZ 85007

12 Richard Fergus, Licensing Division Manager
13 Robert Charlton, Assistant Superintendent
Arizona Department of Financial Institutions
14 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

15 AND COPY MAILED SAME DATE by Certified Mail, Return Receipt Requested, to:

16 Dier Enterprises, Inc. dba
17 Source4 Home Loans (S4HL)
Attn: Eric S. Margolias, President & Statutory Agent
18 5007 E. Wagoner Road
Scottsdale, AZ 85254

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21 BY: June Beckwith
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1 the Department received a signed green card evidencing receipt of the Order.

2 6. The Department also sent a copy of the Order to Dier's statutory agent on file
3 with the Arizona Corporation Commission.

4 7. Richard Fergus ("Mr. Fergus"), who is in charge of supervising the Financial
5 Services Division of the Department, testified that the Department researched the
6 Arizona Corporations' records regarding Dier and found that as of April 20, 2009, Dier
7 was not in good standing. Mr. Margolias testified that Dier had not filed an annual
8 report and that it has rectified the situation and filed an annual report. The
9 documentary evidence corroborated Mr. Margolias's testimony and established that as
10 of July 23, 2009, Dier was in good standing with the Arizona Corporation Commission.

11 8. Mr. Fergus testified that the Department's records reflect that Dier's canceled
12 bond has not been replaced and that prior to the hearing date, the Department had not
13 heard from Dier regarding replacement surety bond or that the bond had been
14 renewed.

15 9. Mr. Fergus testified as to the legal requirement for a mortgage broker to maintain
16 a surety bond and for the summary suspension of the bond for the public's protection.

17 10. Mr. Margolias testified that upon receiving notification that Dier's surety bond
18 would be cancelled, he contacted RLI Insurance Company and learned that the
19 financial requirements for maintaining the bond had changed and that Dier could not
20 meet the financial requirements for the bond. He also testified that RLI Insurance
21 Company informed him that the requirements it placed on maintaining the bond are
22 industry wide requirements.

23 11. Mr. Margolias contacted the Department and contemplated having Dier's
24 mortgage broker's license placed on inactive status. He was informed that the license
25 would have to be active for one more year in order to be placed inactive.

26 12. Mr. Fergus testified that although he did not learn of Mr. Margolias's contact with
27 the Department, the information Mr. Margolias received was correct and that Dier's
28 license could not be immediately placed on inactive status and that it could be effective
29 in 2010. However, during the time the license is active, Dier is required to maintain a
30 surety bond pursuant to State law.

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CONCLUSIONS OF LAW

1. The Superintendent of the Department is vested with the authority to regulate persons engaged in the mortgage broker business and has the duty to enforce statutes and rules relating to mortgage brokers. See A.R.S. § 6-901 *et seq.*

2. The Department bears the burden to prove by a preponderance of the evidence that Dier has violated State laws pertaining to mortgage brokers. See A.A.C. R2-19-119. A preponderance of the evidence is "such proof as convinces the trier of fact that the contention is more probably true than not." Morris K. Udall, ARIZONA LAW OF EVIDENCE § 5 (1960).

3. Credible evidence established that Dier failed to maintain a surety bond in the amount of \$10,000.00 as required by A.R.S. § 6-903(G).

4. By failing to maintain the required surety bond, Dier failed to conduct its mortgage broker business in accordance with the law and violated the provisions of Title 6, Chapter 9 and rules relating thereto, which constitute grounds for revocation of the license pursuant to A.R.S. § 6-905(A)(3).

5. Pursuant to A.R.S. § 41-1092.11, the Superintendent has the authority to suspend Dier's mortgage broker's license if emergency action is required to protect the health, safety and welfare of the public.

6. Based on the above, grounds existed for the issuance of the Order of Summary Suspension of Dier's mortgage broker's license.

7. Based on the above, grounds exist for the revocation of Dier's mortgage broker's license pursuant to A.R.S. § 6-905.

ORDER

Dier's mortgage broker's license summary suspension is upheld and, on the effective date of the Order entered in this matter, Dier's mortgage broker's license shall be revoked.

Done this day, August 10, 2009.



Lewis D. Kowal
Administrative Law Judge

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Original transmitted by mail this
11 day of August, 2009, to:

Felecia A. Rotellini, Superintendent
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

By Chm Fishler