

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Commercial Mortgage Broker
License of:

No. 15F-BD168-SBD

3 **P.D. JAMES, LLC AND PETER D.**
4 **HOMENICK, MANAGING MEMBER**
5 8234 El Cadena
Scottsdale, AZ 85258

**ORDER OF SUMMARY SUSPENSION
AND NOTICE OF OPPORTUNITY FOR
HEARING**

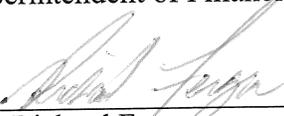
6 Respondents.

7
8 The Arizona Department of Financial Institutions (the "Department") hereby finds that P.D.
9 James, LLC and Peter D. Homenick, Managing Member ("Respondents") have violated the
10 provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the
11 public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-903(J), (K) and
12 (M), 6-905(A)(3) and 41-1092.11(B).

13 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona commercial mortgage
14 broker license held by Respondents. **This suspension is effective immediately.**

15 EFFECTIVE this 12th day of June, 2015.

16 Lauren W. Kingry
Superintendent of Financial Institutions

17
18 By 
Richard Fergus
19 Licensing Division Manager

20 PLEASE TAKE NOTICE that, pursuant to Titles 6 and 41 of the Arizona Revised Statutes
21 and Title 20, Chapter 4 of the Arizona Administrative Code ("A.A.C."), Respondents are hereby
22 notified that they are entitled to a hearing to contest the allegations set forth in this Order. The
23 Request for Hearing shall be filed with the Arizona Department of Financial Institutions (the
24 "Department") pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this Order and
25 shall identify with specificity the action or order for which review is sought in accordance with
26 A.R.S. § 41-1092.03(B).

1 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
2 her own behalf or by counsel. If Respondents are represented by counsel, the information required
3 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
4 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
5 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
6 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
7 **physical accessibility.** Requests for special accommodations must be made as early as possible to
8 allow time to arrange the accommodations. If accommodations are required, call the Office of
9 Administrative Hearings at (602) 542-9826.

10 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
11 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled
12 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
13 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
14 Department will be present (the "Department Representative"). Please note that in requesting an
15 Informal Settlement Conference, Respondents waive any right to object to the participation of the
16 Department Representative in the final administrative decision of this matter, if it is not settled. In
17 addition, any written or oral statement made by Respondents at such informal settlement conference,
18 including written documentation created or expressed solely for purposes of settlement negotiations,
19 are inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules
20 regarding informal settlement conferences.) Conversely, any written or oral statement made by
21 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
22 Department in any subsequent hearing.

23 If Respondents do not request a hearing, this Order shall become final. If Respondents
24 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
25 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
26 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time

1 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
2 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.
3 § 6-132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-905; and
4 (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules
5 regulating commercial mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131.

6 FINDINGS

7 1. Respondent P.D. James, LLC ("PDJ") is an Arizona limited liability company
8 authorized to transact business in Arizona as a commercial mortgage banker, license number CMB-
9 0919789, within the meaning of A.R.S. § 6-901, *et seq.* The nature of PDJ's business is that of
10 directly or indirectly making, negotiating or offering to make a commercial mortgage loan, within
11 the meaning of A.R.S. § 6-901(2).

12 2. Respondent Peter D. Homenick ("Mr. Homenick") is the Managing Member of PDJ and
13 is authorized to transact business in Arizona as a commercial mortgage broker within the meaning of
14 A.R.S. § 6-901, *et seq.*

15 3. Pursuant to A.R.S. § 6-903(J) and (K), as a prerequisite to doing business as a
16 commercial mortgage broker, Respondents are required to have a surety bond deposited with the
17 Superintendent.

18 4. Pursuant to A.R.S. § 6-903(M), in lieu of the required bond under A.R.S. § 6-903(J) and
19 (K), Respondents may deposit with the Superintendent, in the form of cash or alternatives to cash in
20 the same amount as the required bond, a certificate of deposit or investment certificate assigned to
21 the Arizona State Treasurer.

22 5. On April 16, 2015, the Department received from Respondents a copy of a Motion to
23 Compel Turnover, filed April 13, 2015, *In re: P.D. James, LLC*, United States Bankruptcy Court for
24 the District of Arizona, No. 2-11-bk-14338-GBN, moving the Court for an order to compel turnover
25 to the Bankruptcy Trustee the \$10,000 cash bond Respondents had on deposit with the Arizona State
26 Treasurer in compliance with the Department's commercial mortgage broker license requirements.

1 6. On May 12, 2015, the Department received a copy of an Order Granting Motion to
2 Compel Turnover, entered by Bankruptcy Judge George B. Nielsen on May 12, 2015. Finding the
3 \$10,000 cash bond to be part of the bankruptcy estate, the Court ordered said cash bond be turned
4 over to the Trustee no later than fourteen (14) days from the date of the Order.

5 7. On May 13, 2015, the Department sent a letter to Respondents regarding the Motion to
6 Compel, and the Court's Order Granting Motion to Compel Turnover. The letter informed
7 Respondents that the certificate of deposit ordered to be turned over to the Bankruptcy Trustee
8 would need to be replaced with either a surety bond or another certificate of deposit by May 26,
9 2015 in order to be in compliance with A.R.S. § 6-903. Failure to replace the certificate of deposit
10 would result in Respondents being subject to an administrative action.

11 8. On May 13, 2015, the Department placed the deficiency information regarding the
12 certificate of deposit on Nationwide Mortgage Licensing System ("NMLS").

13 9. On May 13, 2015, the Department sent an email to Respondents informing them that the
14 deficiency information was placed on NMLS, and attached a copy of its May 13, 2015 letter.

15 10. To date, Respondents have failed to respond to the Department regarding replacement of
16 the certificate of deposit with a surety bond or certificate of deposit. Further, the Department has not
17 received Respondents' commercial mortgage broker license.

18 11. Having failed to surrender their license and having failed to provide documentation of a
19 new surety bond or certificate of deposit, Respondents do not have the required surety bond or
20 certificate of deposit in order to conduct business as a commercial mortgage broker.

21 12. The conduct described above constitutes an unsafe or unsound practice and a violation
22 of Arizona law that poses an immediate threat to the public health, safety, and welfare warranting
23 immediate suspension of Respondents' commercial mortgage broker license.

24 13. The conduct described above constitutes grounds for the suspension of Respondents'
25 commercial mortgage broker license.

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1 ORIGINAL of the foregoing filed this 12th
2 day of June, 2015, in the office of:

3 Lauren W. Kingry, Superintendent of Financial Institutions
4 Arizona Department of Financial Institutions
5 ATTN: Annette Krenz
6 2910 N. 44th St., Suite 310
7 Phoenix, AZ 85018

8 COPY mailed/delivered same date to:

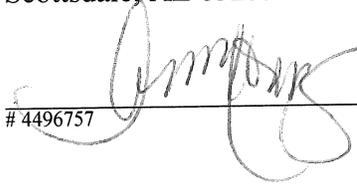
9 Craig A. Raby, Assistant Attorney General
10 Arizona Attorney General's Office
11 1275 West Washington Street
12 Phoenix, AZ 85007

13 Richard Fergus, Licensing Division Manager
14 Arizona Department of Financial Institutions
15 2910 N. 44th Street, Suite 310
16 Phoenix, AZ 85018

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

19 Peter D. Homenick, Managing Member
20 P.D. James, LLC
21 8234 El Cadena
22 Scottsdale, AZ 85258
23 Respondents

24 Peter D. Homenick
25 Statutory Agent for P.D. James, LLC
26 12009 E. Ironwood Drive
Scottsdale, AZ 85259


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