

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Unlicensed Activity of:

No. 08F-BD027-BNK

3 **UNTANGLED MORTGAGE PROCESSING**
4 **AND ANNICYA MITCHELL, OWNER**
5 2215 E. Siesta Lane
6 Phoenix, AZ 85024

CONSENT ORDER

Petitioners.

7 On October 30, 2007, the Arizona Department of Financial Institutions ("Department")
8 issued an Order to Cease and Desist; Notice of Opportunity for Hearing; and Consent to Entry of
9 Order, ordering Petitioners to cease violating Arizona law. Wishing to resolve this matter in lieu of
10 an administrative hearing and without admitting liability, Petitioners do not contest the following
11 Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Petitioner Untangled Mortgage Processing ("UMP") is a trade name owned by Anniacya
14 Mitchell ("Ms. Mitchell"). Based upon its investigation, the Department determined that UMP is an
15 Arizona sole proprietorship that is not authorized to transact business in Arizona as a mortgage
16 broker within the meaning of A.R.S. §§ 6-901, *et seq.* The Department also found that the nature of
17 UMP's business is that of making, negotiating, or offering to make or negotiate a mortgage banking
18 loan or a mortgage loan secured by Arizona real property within the meaning of A.R.S. §§ 6-901, *et*
19 *seq.*

20 2. Petitioner Ms. Mitchell is not authorized to transact business in Arizona as a mortgage
21 broker within the meaning of A.R.S. §§ 6-901, *et seq.*

22 3. Neither UMP nor Ms. Mitchell are exempt from licensure as mortgage brokers within the
23 meaning of A.R.S. § 6-902.

24 4. On July 13, 2006, the Department conducted a periodic examination of a licensed
25 mortgage broker and discovered that the licensee employed and paid compensation to Ms. Mitchell
26 by issuing a check to UMP. The Department determined that UMP was an unlicensed independent

1 contractor acting as a mortgage broker.

2 5. On December 8, 2006, the Department sent a letter to UMP, stating that the Department
3 had reason to believe that Untangled Mortgage Processing was operating in Arizona without the
4 benefit of a mortgage broker's license, and gave UMP an opportunity to respond by December 18,
5 2006.

6 6. On December 18, 2006, Ms. Mitchell responded by stating she worked for Western Thrift
7 & Loan in Phoenix and was paid through UMP. Ms. Mitchell closed her first mortgage loan in
8 November 2004. As evidence, the examiner obtained a copy of the licensee's check made payable
9 to UMP for processing mortgage loans.

10 CONCLUSIONS OF LAW

11 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to
12 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,
13 rules, and regulations relating to mortgage brokers.

14 2. By the conduct set forth in the Findings of Fact, UMP and Ms. Mitchell have violated
15 the following:

16 a. A.R.S. § 6-909(B) and A.A.C. R20-4-102, by receiving compensation as an
17 independent contractor while acting as a mortgage loan processor, but was not
18 licensed as a mortgage broker.

19 3. The violations of applicable laws, set forth above, constitute grounds for: (1) the
20 issuance of an order pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the
21 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
22 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
23 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-
24 132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes and
25 rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131.

26 4. Pursuant to A.R.S. § 6-132, Petitioners' violations of the aforementioned statutes are

1 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for
2 each day.

3 **ORDER**

4 1. Ms. Mitchell shall immediately stop the violations set forth in the Findings of Fact and
5 Conclusions of Law.

6 2. Ms. Mitchell shall not transact business as a mortgage broker without first obtaining a
7 license.

8 3. The provisions of the Order shall be binding upon Ms. Mitchell, and resolves the Notice
9 of Hearing. To the extent necessary or appropriate, this Order is also binding on UMP, despite that
10 UMP is not a separate legal entity.

11 4. The provisions of this Order shall be binding upon Ms. Mitchell and her employees,
12 agents, and other persons participating in the conduct of the affairs of UMP.

13 5. This Order shall become effective upon service, and shall remain effective and
14 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated
15 or set aside.

16 SO ORDERED this 23 day of January, ~~2007~~ 2008

17 
18 Robert D. Charlton
19 Assistant Superintendent of Financial Institutions

20 **CONSENT TO ENTRY OF ORDER**

21 1. Ms. Mitchell acknowledges that she has been served with a copy of the foregoing
22 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same,
23 is aware of her right to an administrative hearing in this matter, and has waived the same.

24 2. Ms. Mitchell admits the jurisdiction of the Superintendent and consent to the entry of
25 the foregoing Findings of Fact, Conclusions of Law, and Order.

26 3. Ms. Mitchell states that no promise of any kind or nature has been made to induce her

1 to consent to the entry of this Order, and that she has done so voluntarily.

2 4. Ms. Mitchell acknowledges that the acceptance of this Agreement by the
3 Superintendent is solely to settle this matter and does not preclude this Department, any other agency
4 or officer of this state or subdivision thereof from instituting other proceedings as may be
5 appropriate now or in the future.

6 5. Anniacya Mitchell, on behalf of Untangled Mortgage Processing and herself,
7 represents that she is the Owner of her trade name, and that, as such, has been authorized by
8 Untangled Mortgage Processing to consent to the entry of this Order on its behalf.

9 6. Ms. Mitchell waives all rights to seek judicial review or otherwise to challenge or
10 contest the validity of this Cease and Desist Order.

11 DATED this 11th day of January, 2008.

12 By Anniacya Mitchell
13 Anniacya Mitchell, Owner
14 Untangled Mortgage Processing

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16
17 ORIGINAL of the foregoing filed this 23
18 day of January, 2008 in the office of:

19 Felecia A. Rotellini
20 Superintendent of Financial Institutions
21 Arizona Department of Financial Institutions
22 ATTN: Susan Longo
23 2910 N. 44th Street, Suite 310
24 Phoenix, AZ 85018

25 COPY mailed/delivered same date to:

26 Hon. Diane Mihalsky
Administrative Law Judge
Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

1 Erin O. Gallagher
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2 Office of the Attorney General
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6 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

7
8 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

9 Loren Molever, Esq.
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11 Attorneys for Petitioners

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